

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2577

AN ACT

AMENDING TITLE 11, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8; AMENDING TITLE 12, CHAPTER 6, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-716; AMENDING SECTION 12-820.02, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-124; AMENDING TITLE 13, CHAPTER 15, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1509; AMENDING SECTIONS 13-2002, 15-191.01, 15-232 AND 15-1803, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 14, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1825; AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 2 AND 2.1; AMENDING SECTION 26-172, ARIZONA REVISED STATUTES; AMENDING TITLE 26, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; AMENDING TITLE 41, CHAPTER 1, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-199; AMENDING SECTION 41-763, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7.2; AMENDING TITLE 41, CHAPTER 7, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1292.01; AMENDING SECTION 41-1376, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 8, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1384; CHANGING THE DESIGNATION OF TITLE 41, CHAPTER 12, ARTICLE 1, ARIZONA REVISED STATUTES, TO "GENERAL PROVISIONS"; AMENDING TITLE 41, CHAPTER 12, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1702; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 20; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3016.01; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 41; AMENDING SECTION 43-1021, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 76,

SECTION 5; AMENDING SECTIONS 46-801 AND 46-803, ARIZONA REVISED STATUTES;
PROVIDING FOR THE DELAYED REPEAL OF SECTION 41-1292.01, ARIZONA REVISED
STATUTES, AS ADDED BY THIS ACT; MAKING APPROPRIATIONS; RELATING TO
IMMIGRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 11, chapter 7, Arizona Revised Statutes, is amended
3 by adding article 8, to read:

4 ARTICLE 8. ENFORCEMENT OF IMMIGRATION LAWS

5 11-1051. Cooperation and assistance in enforcement of
6 immigration laws

7 A. ALL OFFICIALS, AGENCIES AND PERSONNEL OF COUNTIES, CITIES AND TOWNS
8 SHALL FULLY COMPLY WITH AND, TO THE FULL EXTENT PERMITTED BY LAW, SUPPORT THE
9 ENFORCEMENT OF FEDERAL IMMIGRATION LAWS OF THE UNITED STATES.

10 B. EXCEPT AS PROVIDED IN FEDERAL LAW, NO OFFICIAL, PERSONNEL OR AGENT
11 OF COUNTIES, CITIES AND TOWNS MAY BE PROHIBITED OR IN ANY WAY RESTRICTED FROM
12 SENDING, RECEIVING OR MAINTAINING INFORMATION RELATING TO THE IMMIGRATION
13 STATUS, LAWFUL OR UNLAWFUL, OF ANY INDIVIDUAL OR EXCHANGING THAT INFORMATION
14 WITH ANY OTHER FEDERAL, STATE OR LOCAL GOVERNMENTAL ENTITY FOR THE FOLLOWING
15 OFFICIAL PURPOSES:

16 1. DETERMINATION OF ELIGIBILITY FOR ANY FEDERAL, STATE OR LOCAL PUBLIC
17 BENEFIT, SERVICE OR LICENSE THAT IS RESTRICTED IN WHOLE OR IN PART ON THE
18 BASIS OF IMMIGRATION STATUS.

19 2. VERIFICATION OF ANY CLAIM OF LEGAL DOMICILE IF LEGAL DOMICILE IS
20 REQUIRED BY LAW OR CONTRACT.

21 3. CONFIRMATION OF THE IDENTITY OF ANY PERSON WHO IS DETAINED AND WHO
22 CLAIMS NOT TO BE A CITIZEN OF THE UNITED STATES.

23 C. COUNTY SHERIFFS AND POLICE DEPARTMENTS OF CITIES AND TOWNS SHALL
24 ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE UNITED STATES DEPARTMENT OF
25 JUSTICE OR THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TO DESIGNATE
26 OFFICERS AS IMMIGRATION OFFICERS QUALIFIED TO INVESTIGATE, APPREHEND AND
27 DETAIN ILLEGAL ALIENS IN THE UNITED STATES TO THE FULLEST EXTENT CONSISTENT
28 WITH STATE AND FEDERAL LAW.

29 D. COUNTY SHERIFFS AND POLICE DEPARTMENTS OF CITIES AND TOWNS SHALL
30 IMPLEMENT A PROGRAM TO TRAIN PEACE OFFICERS TO INVESTIGATE VIOLATIONS OF
31 FEDERAL IMMIGRATION LAWS. THE TRAINING SHALL BE FUNDED BY FEDERAL FUNDS
32 RECEIVED BY THIS STATE PURSUANT TO THE DEPARTMENT OF HOMELAND SECURITY
33 APPROPRIATIONS ACT, 2006 (P.L. 109-90) OR ANY SUBSEQUENT SOURCE OF FEDERAL
34 FUNDING.

35 E. THE REQUIREMENTS AND OBLIGATIONS OF THIS SECTION SHALL BE
36 IMPLEMENTED IN A MANNER FULLY CONSISTENT WITH FEDERAL LAW REGULATING
37 IMMIGRATION AND PROTECTING THE CIVIL RIGHTS OF CITIZENS AND ALIENS.

38 Sec. 2. Title 12, chapter 6, article 12, Arizona Revised Statutes, is
39 amended by adding section 12-716, to read:

40 12-716. Actions by illegal aliens prohibited

41 NOTWITHSTANDING ANY LAW TO THE CONTRARY, A PERSON WHO IS PRESENT IN
42 THIS STATE IN VIOLATION OF 8 UNITED STATES CODE SECTION 1325 SHALL NOT BE
43 AWARDED PUNITIVE DAMAGES IN ANY ACTION IN ANY COURT IN THIS STATE.

1 Sec. 3. Section 12-820.02, Arizona Revised Statutes, is amended to
2 read:

3 12-820.02. Qualified immunity

4 A. Unless a public employee acting within the scope of the public
5 employee's employment intended to cause injury or was grossly negligent,
6 neither a public entity nor a public employee is liable for:

7 1. The failure to make an arrest or the failure to retain an arrested
8 person in custody.

9 2. An injury caused by an escaping or escaped prisoner or a youth
10 committed to the department of juvenile corrections.

11 3. An injury resulting from the probation, community supervision or
12 discharge of a prisoner or a youth committed to the department of juvenile
13 corrections, from the terms and conditions of the prisoner's or youth's
14 probation or community supervision or from the revocation of the prisoner's
15 or youth's probation, community supervision or conditional release under the
16 psychiatric security review board.

17 4. An injury caused by a prisoner to any other prisoner or an injury
18 caused by a youth committed to the department of juvenile corrections to any
19 other committed youth.

20 5. The issuance of or failure to revoke or suspend any permit,
21 license, certificate, approval, order or similar authorization for which
22 absolute immunity is not provided pursuant to section 12-820.01.

23 6. The failure to discover violations of any provision of law when
24 inspections are done of property other than property owned by the public
25 entity in question.

26 7. An injury to the driver of a motor vehicle that is attributable to
27 the violation by the driver of section 28-693, 28-1381 or 28-1382.

28 8. The failure to prevent the sale or transfer of a handgun to a
29 person whose receipt or possession of the handgun is unlawful under any
30 federal law or any law of this state.

31 9. Preventing the sale or transfer of a handgun to a person who may
32 lawfully receive or possess a handgun.

33 10. The failure to detain a juvenile taken into temporary custody or
34 arrested for a criminal offense or delinquent or incorrigible act in the
35 appropriate detention facility, jail or lockup described in section 8-305.

36 11. **QUESTIONING A PERSON'S IMMIGRATION STATUS PURSUANT TO SECTION**
37 **13-124.**

38 B. The qualified immunity provided in this section applies to a public
39 entity or public employee if the injury or damage was caused by a
40 contractor's employee or a contractor of a public entity acting within the
41 scope of the contract. The qualified immunity provided in this section does
42 not apply to the contractor or the contractor's employee.

1 G. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, IF THE PERSON
2 VIOLATES THIS SECTION WHILE IN POSSESSION OF ANY OF THE FOLLOWING, THE
3 VIOLATION IS A CLASS 2 FELONY:

- 4 1. A DANGEROUS DRUG AS DEFINED IN SECTION 13-3401.
- 5 2. PRECURSOR CHEMICALS THAT ARE USED IN THE MANUFACTURING OF
6 METHAMPHETAMINE IN VIOLATION OF SECTION 13-3404.01.
- 7 3. A DEADLY WEAPON AS DEFINED IN SECTION 13-3101 OR A DANGEROUS
8 INSTRUMENT AS DEFINED IN SECTION 13-105.
- 9 4. PROPERTY THAT IS USED FOR THE PURPOSE OF COMMITTING AN ACT OF
10 TERRORISM AS PRESCRIBED IN SECTION 13-2308.01.

11 Sec. 6. Section 13-2002, Arizona Revised Statutes, is amended to read:
12 13-2002. Forgery; classification

13 A. A person commits forgery if, with intent to defraud, the person:

- 14 1. Falsely makes, completes or alters a written instrument; or
- 15 2. Knowingly possesses a forged instrument; or
- 16 3. Offers or presents, whether accepted or not, a forged instrument or

17 one that contains false information; OR ~~—~~

18 4. FALSELY MAKES OR ALTERS A WRITTEN INSTRUMENT THAT PURPORTS TO BE A
19 DOCUMENT THAT FULFILLS THE REQUIREMENTS FOR ESTABLISHING IDENTITY, OR
20 ELIGIBILITY TO WORK IN THE UNITED STATES PURSUANT TO THE FEDERAL IMMIGRATION
21 REFORM AND CONTROL ACT OF 1986, AND THAT IS USED TO OBTAIN EMPLOYMENT IN THIS
22 STATE BY A PERSON WHO IS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

23 B. The possession of five or more forged instruments may give rise to
24 an inference that the instruments are possessed with an intent to defraud.

25 C. IF THE COURT ORDERS RESTITUTION FOR A VIOLATION OF SUBSECTION A,
26 PARAGRAPH 4, THE RESTITUTION ORDER SHALL INCLUDE DAMAGES INCURRED BY ANY
27 EMPLOYER WHO RELIED ON A FORGED INSTRUMENT IN HIRING OR EMPLOYING A PERSON
28 WHO WAS NOT AUTHORIZED TO WORK IN THE UNITED STATES, INCLUDING THE EMPLOYER'S
29 COSTS, ATTORNEY FEES AND EXPENSES.

30 ~~C.~~ D. FORGERY PURSUANT TO SUBSECTION A, PARAGRAPH 4 IS A CLASS 3
31 FELONY. Forgery PURSUANT TO SUBSECTION A, PARAGRAPH 1, 2 OR 3 is a class 4
32 felony.

33 Sec. 7. Section 15-191.01, Arizona Revised Statutes, is amended to
34 read:

35 15-191.01. Family literacy program; procedures; curriculum;
36 eligibility plan

37 A. The family literacy program is established in the state board of
38 education through the division of early childhood education programs to
39 increase the basic academic and literacy skills of eligible parents and their
40 preschool children in accordance with this article. The state board of
41 education shall establish family literacy projects as part of the overall
42 program at locations where there is a high incidence of economic and
43 educational disadvantage as determined by the state board of education in
44 consultation with the department of economic security and, as appropriate,
45 other state agencies.

1 B. The state board of education shall adopt procedures necessary to
2 implement the family literacy program.

3 C. The state board of education shall establish guidelines for
4 requiring family literacy program participants to engage in community service
5 activities in exchange for benefits received from the program. Participants
6 shall be allowed to choose from a variety of community and faith-based
7 service providers that are under contract with the department to provide
8 community service opportunities or program services. Participants shall be
9 allowed and encouraged to engage in community services within their own
10 communities. Participants shall be allowed to fulfill the requirements of
11 this subsection by providing community services to the program from which
12 they received services.

13 D. The state board of education shall submit an annual report by
14 December 31 to the governor, the speaker of the house of representatives and
15 the president of the senate regarding the community service activities of
16 family literacy program participants pursuant to subsection C, including
17 information on the number of participants, the types of community service
18 performed and the number of hours spent in community service activities.

19 E. Local education agencies and adult education programs funded by the
20 department of education are eligible for grants if the state board of
21 education determines that a high percentage of adults in the county, the
22 local school district or the targeted local school service area have not
23 graduated from high school. Selection criteria for grant awards shall
24 include at a minimum the educational needs of the adult population, the
25 incidence of unemployment in the county, district or local targeted school
26 service area, the degree to which community collaboration and partnership
27 demonstrate the ability to bring additional resources to the program and the
28 readiness and likelihood of the proposing organizations to establish a
29 successful family literacy project.

30 F. Each project team shall include representatives from each of the
31 following:

32 1. One or more local school districts or the county school
33 superintendent's office.

34 2. An adult education provider funded by the division of adult
35 education or a provider that complies with the policies, academic standards,
36 performance outcomes, assessment and data collection requirements of adult
37 education as prescribed by the division of adult education.

38 3. A private or public early childhood education provider.

39 4. Any other social service, governmental or private agency that may
40 provide assistance for the planning and operation of the project.

41 G. In addition to the grants prescribed in subsection H, the state
42 board of education shall authorize two grants to existing literacy programs
43 in this state that can offer training and serve as models and training
44 resources for the establishment and expansion of other programs throughout
45 this state. Existing literacy programs shall submit a grant application to

1 the state board of education in the same manner as prescribed in
2 subsection K.

3 H. The state board of education shall authorize additional grants
4 through the division of early childhood education programs in areas of
5 educational and economic need.

6 I. Selected projects shall use either:

7 1. A nationally recognized family literacy model such as models
8 developed by the national center for family literacy or its successor.

9 2. A model that, in the determination of the project team and the
10 state board of education, is superior to a nationally recognized family
11 literacy model.

12 J. Eligible parents shall be instructed in adult basic education and
13 general educational development. Preschool children shall receive
14 instruction in developmentally appropriate early childhood programs. Other
15 planned, structured activities involving parents and children in learning
16 activities may be established as a part of the curriculum.

17 K. Each grant application shall include a plan to address at least the
18 following:

19 1. Identification and recruitment of eligible parents and children.

20 2. Screening and preparation of parents and children for participation
21 in the family literacy program.

22 3. Instructional programs and assessment practices that promote
23 academic and literacy skills and that equip parents to provide needed support
24 for the educational growth and success of their children.

25 4. A determination that at least ten but no more than twenty parents
26 with children will be eligible for and be enrolled in the family literacy
27 program at all times, or that the family literacy programs shall document
28 efforts to continually recruit eligible families.

29 5. Provision of child care through either private or public providers.

30 6. A transportation plan for participants.

31 7. An organizational partnership involving at a minimum a common
32 school, a private or publicly funded preschool provider and an adult
33 education program funded by the department of education or by an outside
34 funding source.

35 L. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION,
36 GENDER, ETHNICITY OR NATIONAL ORIGIN.

37 M. THE STATE BOARD OF EDUCATION SHALL REPORT ON DECEMBER 31 AND JUNE
38 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF
39 PARENTS WHO APPLIED TO PARTICIPATE IN A PROGRAM UNDER THIS ARTICLE AND THE
40 TOTAL NUMBER OF PARENTS WHO WERE NOT ELIGIBLE UNDER THIS ARTICLE BECAUSE THE
41 PARENT WAS NOT AN ELIGIBLE PARENT AS DEFINED IN SECTION 15-191, PARAGRAPH 1,
42 SUBDIVISION (c).

1 Sec. 8. Section 15-232, Arizona Revised Statutes, is amended to read:
2 15-232. Division of adult education; duties

3 A. There is established a division of adult education within the
4 department of education, under the jurisdiction of the state board ~~for~~
5 ~~vocational and technologica~~ OF education, which shall:

6 1. Prescribe a course of study for adult education in school
7 districts.

8 2. Make available and supervise the program of adult education in
9 other institutions and agencies of this state.

10 3. Adopt rules for the establishment and conduct of classes for
11 immigrant and adult education, including the teaching of English to
12 foreigners, in school districts.

13 4. Devise plans for establishment and maintenance of classes for
14 immigrant and adult education, including the teaching of English to
15 foreigners, stimulate and correlate the Americanization work of various
16 agencies, including governmental, and perform such other duties as may be
17 prescribed by the state board of education and the superintendent of public
18 instruction.

19 5. Prescribe a course of study to provide training for adults to
20 continue their basic education to the degree of passing a general equivalency
21 diploma test or an equivalency test approved by the state board of education.

22 B. THE DEPARTMENT OF EDUCATION SHALL PROVIDE CLASSES UNDER THIS
23 SECTION ONLY TO ADULTS WHO ARE CITIZENS OR LEGAL RESIDENTS OF THE UNITED
24 STATES OR ARE OTHERWISE LAWFULLY PRESENT IN THE UNITED STATES. THIS
25 SUBSECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION, GENDER,
26 ETHNICITY OR NATIONAL ORIGIN.

27 C. THE DEPARTMENT OF EDUCATION SHALL REPORT ON DECEMBER 31 AND JUNE 30
28 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF
29 ADULTS WHO APPLIED FOR INSTRUCTION AND THE TOTAL NUMBER OF ADULTS WHO WERE
30 DENIED INSTRUCTION UNDER THIS SECTION BECAUSE THE APPLICANT WAS NOT A CITIZEN
31 OR LEGAL RESIDENT OF THE UNITED STATES OR WAS NOT OTHERWISE LAWFULLY PRESENT
32 IN THE UNITED STATES.

33 Sec. 9. Section 15-1803, Arizona Revised Statutes, is amended to read:
34 15-1803. Alien in-state student status

35 A. An alien is entitled to classification as an in-state refugee
36 student if such person has been granted refugee status in accordance with all
37 applicable laws of the United States and has met all other requirements for
38 domicile.

39 B. IN ACCORDANCE WITH THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT
40 RESPONSIBILITY ACT OF 1996 (P.L. 104-208; 110 STAT. 3009), A PERSON WHO IS
41 NOT A CITIZEN OR LEGAL RESIDENT OF THE UNITED STATES OR WHO IS WITHOUT LAWFUL
42 IMMIGRATION STATUS IS NOT ENTITLED TO CLASSIFICATION AS AN IN-STATE STUDENT
43 PURSUANT TO SECTION 15-1802 OR ENTITLED TO CLASSIFICATION AS A COUNTY
44 RESIDENT PURSUANT TO SECTION 15-1802.01.

1 C. EACH COMMUNITY COLLEGE AND UNIVERSITY SHALL REPORT ON DECEMBER 31
2 AND JUNE 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL
3 NUMBER OF STUDENTS WHO WERE ENTITLED TO CLASSIFICATION AS AN IN-STATE STUDENT
4 AND THE TOTAL NUMBER OF STUDENTS WHO WERE NOT ENTITLED TO CLASSIFICATION AS
5 AN IN-STATE STUDENT UNDER THIS SECTION BECAUSE THE STUDENT WAS NOT A CITIZEN
6 OR LEGAL RESIDENT OF THE UNITED STATES OR IS WITHOUT LAWFUL IMMIGRATION
7 STATUS.

8 Sec. 10. Title 15, chapter 14, article 2, Arizona Revised Statutes, is
9 amended by adding section 15-1825, to read:

10 15-1825. Prohibited financial assistance; report

11 A. A PERSON WHO IS NOT A CITIZEN OF THE UNITED STATES, WHO IS WITHOUT
12 LAWFUL IMMIGRATION STATUS AND WHO IS ENROLLED AS A STUDENT AT ANY UNIVERSITY
13 UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS OR AT ANY COMMUNITY
14 COLLEGE UNDER THE JURISDICTION OF A COMMUNITY COLLEGE DISTRICT IN THIS STATE
15 IS NOT ENTITLED TO TUITION WAIVERS, FEE WAIVERS, GRANTS, SCHOLARSHIP
16 ASSISTANCE, FINANCIAL AID, TUITION ASSISTANCE OR ANY OTHER TYPE OF FINANCIAL
17 ASSISTANCE THAT IS SUBSIDIZED OR PAID IN WHOLE OR IN PART WITH STATE MONIES.

18 B. EACH COMMUNITY COLLEGE AND UNIVERSITY SHALL REPORT ON DECEMBER 31
19 AND JUNE 30 OF EACH YEAR TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL
20 NUMBER OF STUDENTS WHO APPLIED AND THE TOTAL NUMBER OF STUDENTS WHO WERE NOT
21 ENTITLED TO TUITION WAIVERS, FEE WAIVERS, GRANTS, SCHOLARSHIP ASSISTANCE,
22 FINANCIAL AID, TUITION ASSISTANCE OR ANY OTHER TYPE OF FINANCIAL ASSISTANCE
23 THAT IS SUBSIDIZED OR PAID IN WHOLE OR IN PART WITH STATE MONIES UNDER THIS
24 SECTION BECAUSE THE STUDENT WAS NOT A CITIZEN OR LEGAL RESIDENT OF THE UNITED
25 STATES OR NOT LAWFULLY PRESENT IN THE UNITED STATES.

26 C. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION,
27 GENDER, ETHNICITY OR NATIONAL ORIGIN.

28 Sec. 11. Title 23, chapter 2, Arizona Revised Statutes, is amended by
29 adding articles 2 and 2.1, to read:

30 ARTICLE 2. EMPLOYMENT OF UNAUTHORIZED WORKERS

31 23-211. Definitions

32 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

33 1. "AGENCY" MEANS ANY AGENCY, DEPARTMENT, BOARD OR COMMISSION OF THIS
34 STATE OR A COUNTY, CITY OR TOWN THAT ISSUES A LICENSE FOR PURPOSES OF
35 OPERATING A BUSINESS IN THIS STATE.

36 2. "BASIC PILOT PROGRAM" MEANS THE BASIC EMPLOYMENT VERIFICATION PILOT
37 PROGRAM AS JOINTLY ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOMELAND
38 SECURITY AND THE SOCIAL SECURITY ADMINISTRATION OR ITS SUCCESSOR PROGRAM.

39 3. "EMPLOYER" MEANS ANY INDIVIDUAL OR TYPE OF ORGANIZATION, INCLUDING
40 THIS STATE AND ALL OF ITS POLITICAL SUBDIVISIONS, THAT HAS IN ITS EMPLOY ONE
41 OR MORE INDIVIDUALS PERFORMING SERVICES FOR IT IN EMPLOYMENT AND INCLUDES
42 SELF-EMPLOYED PERSONS.

43 4. "KNOWINGLY" MEANS, WITH RESPECT TO CONDUCT OR TO A CIRCUMSTANCE
44 DESCRIBED BY A STATUTE DEFINING AN OFFENSE, THAT A PERSON IS AWARE OR

1 BELIEVES THAT THE PERSON'S CONDUCT IS OF THAT NATURE OR THAT THE CIRCUMSTANCE
2 EXISTS.

3 5. "LICENSE" MEANS ANY AGENCY PERMIT, CERTIFICATE, APPROVAL,
4 REGISTRATION, CHARTER OR SIMILAR FORM OF AUTHORIZATION THAT IS REQUIRED BY
5 LAW AND THAT IS ISSUED BY ANY AGENCY FOR THE PURPOSES OF OPERATING A BUSINESS
6 IN THIS STATE.

7 6. "UNAUTHORIZED WORKER" MEANS A PERSON WHO IS AN ALIEN AND WHO IS NOT
8 AUTHORIZED TO BE EMPLOYED UNDER FEDERAL LAW. FOR THE PURPOSES OF THIS
9 PARAGRAPH, "ALIEN" MEANS A PERSON WHO IS NOT A CITIZEN OR NATIONAL OF THE
10 UNITED STATES.

11 23-212. Verification of employees; civil and criminal immunity

12 NOTWITHSTANDING ANY OTHER LAW, AN EMPLOYER WHO DOES ANY OF THE
13 FOLLOWING IS NOT SUBJECT TO ANY CIVIL OR CRIMINAL PENALTY IMPOSED BY THIS
14 STATE, OR ANY ADMINISTRATIVE OR JUDICIAL ACTION, FOR EMPLOYING AN
15 UNAUTHORIZED WORKER:

16 1. VERIFIES THE EMPLOYMENT ELIGIBILITY OF THE EMPLOYER'S EMPLOYEES
17 THROUGH THE BASIC PILOT PROGRAM.

18 2. COMPLIES WITH FEDERAL AND STATE LAWS REGARDING ALL OF THE
19 FOLLOWING:

20 (a) COMPLETING AND RETAINING I-9 EMPLOYMENT ELIGIBILITY VERIFICATION
21 FORMS AS REQUIRED BY FEDERAL LAW.

22 (b) REPORTING NEWLY HIRED EMPLOYEES TO THE DEPARTMENT OF ECONOMIC
23 SECURITY FOR CHILD SUPPORT ENFORCEMENT PURPOSES PURSUANT TO SECTION
24 23-722.01.

25 (c) REPORTING THE EMPLOYEES TO THE DEPARTMENT OF REVENUE PURSUANT TO
26 TITLE 43, CHAPTER 4, ARTICLES 1 AND 2 AND TO THE INTERNAL REVENUE SERVICE AND
27 SOCIAL SECURITY ADMINISTRATION, AS REQUIRED BY FEDERAL LAW.

28 3. MAKES A GOOD FAITH DETERMINATION THAT THE SERVICES OF A PERSON WERE
29 BEING PROVIDED PURSUANT TO AN INDEPENDENT CONTRACTOR RELATIONSHIP RATHER THAN
30 AN EMPLOYMENT RELATIONSHIP.

31 23-213. Employees; social security numbers

32 A. AN EMPLOYER SHALL DISCHARGE AN EMPLOYEE IF THE EMPLOYER DISCOVERS
33 THAT THE EMPLOYEE PROVIDED AN INVALID SOCIAL SECURITY NUMBER TO THE EMPLOYER,
34 UNLESS THE EMPLOYEE PROVIDES A VALID SOCIAL SECURITY NUMBER OR A LEGAL AND
35 VALID FEDERAL OR STATE IDENTIFICATION DOCUMENT TO THE EMPLOYER WITHIN TEN
36 BUSINESS DAYS AFTER RECEIVING NOTICE FROM THE EMPLOYER THAT THE INITIAL
37 NUMBER WAS INVALID.

38 B. THIS SECTION DOES NOT APPLY IF AN ERROR OCCURRED WHEN A VALID
39 SOCIAL SECURITY NUMBER WAS PROCESSED BY THE EMPLOYER, THE FEDERAL GOVERNMENT
40 OR THIS STATE.

41 23-214. Employment of unauthorized workers; cease and desist
42 order; notice

43 A. BEGINNING JANUARY 1, 2007, IF AN ATTORNEY GENERAL'S INVESTIGATION
44 DETERMINES THAT AN EMPLOYER THAT OPERATES A BUSINESS OR ENTERPRISE IN THIS
45 STATE KNOWINGLY EMPLOYS AN UNAUTHORIZED WORKER IN THIS STATE, AS VERIFIED BY

1 THE ATTORNEY GENERAL WITH THE FEDERAL GOVERNMENT, THE ATTORNEY GENERAL SHALL
2 IMMEDIATELY:

3 1. ORDER THE EMPLOYER TO CEASE AND DESIST FROM EMPLOYING THE
4 UNAUTHORIZED WORKER AND TO DISCHARGE FOR CAUSE OTHER UNAUTHORIZED WORKERS WHO
5 ARE IDENTIFIED IN THE CEASE AND DESIST ORDER AND WHO ARE KNOWINGLY EMPLOYED
6 BY THE EMPLOYER IN THIS STATE. THE CEASE AND DESIST ORDER SHALL CONTAIN A
7 NOTICE OF THE EMPLOYER'S RIGHTS TO CONTEST THE ORDER. THE ATTORNEY GENERAL
8 SHALL CONFIRM THAT THE EMPLOYER RECEIVED THE CEASE AND DESIST ORDER BY
9 CERTIFIED MAIL. THE EMPLOYER SHALL COMPLY WITH THE CEASE AND DESIST ORDER
10 WITHIN TEN BUSINESS DAYS AFTER THE ATTORNEY GENERAL CONFIRMS THAT THE
11 EMPLOYER RECEIVED THE ORDER, UNLESS THE EMPLOYER HAS FILED AN APPEAL OF THE
12 ATTORNEY GENERAL'S CEASE AND DESIST ORDER PURSUANT TO SUBSECTION B.

13 2. NOTIFY UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OF THE
14 UNAUTHORIZED WORKER.

15 B. WITHIN TEN BUSINESS DAYS AFTER RECEIVING A CEASE AND DESIST ORDER
16 UNDER SUBSECTION A, THE EMPLOYER MAY EITHER:

17 1. REQUEST A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

18 2. SERVE A NOTICE OF CONTEST OF THE CEASE AND DESIST ORDER, IN WHICH
19 CASE THE ATTORNEY GENERAL MAY BRING AN ACTION IN SUPERIOR COURT, ADJUDICATED
20 ON A TRIAL DE NOVO BASIS, SEEKING TO ENFORCE THE CEASE AND DESIST ORDER.

21 C. IF THE EMPLOYER REQUESTS A HEARING OR SERVES A NOTICE OF CONTEST
22 PURSUANT TO SUBSECTION B, THE CEASE AND DESIST ORDER IS NOT EFFECTIVE UNTIL
23 TEN BUSINESS DAYS AFTER THE EXPIRATION OF ANY TIME PERIOD TO APPEAL FROM THE
24 FINAL ADMINISTRATIVE DECISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS OR THE
25 DECISION OF THE SUPERIOR COURT AND ANY SUBSEQUENT APPEALS.

26 D. FOR THE PURPOSES OF THIS SECTION, PROOF OF EITHER OF THE FOLLOWING
27 CIRCUMSTANCES, UNLESS SATISFACTORILY EXPLAINED, CREATES A REBUTTABLE
28 PRESUMPTION THAT AN EMPLOYER KNOWINGLY EMPLOYED AN UNAUTHORIZED WORKER:

29 1. THE EMPLOYER VIOLATED THE MINIMUM WAGE REQUIREMENTS PRESCRIBED BY
30 THE FEDERAL FAIR LABOR STANDARDS ACT FOR THE EMPLOYEE WHO IS IDENTIFIED IN
31 THE CEASE AND DESIST ORDER.

32 2. THE EMPLOYER ACCEPTS A CONSULAR IDENTIFICATION CARD THAT IS ISSUED
33 BY A FOREIGN GOVERNMENT AS A FORM OF IDENTIFICATION WHEN DETERMINING THE
34 EMPLOYEE'S IDENTITY.

35 E. BEFORE THE ATTORNEY GENERAL BEGINS AN INVESTIGATION UNDER THIS
36 SECTION THAT IS BASED ON A COMPLAINT MADE TO THE ATTORNEY GENERAL'S OFFICE,
37 THE ATTORNEY GENERAL SHALL REQUIRE THAT THE COMPLAINT BE IN WRITING AND BE
38 SIGNED BY THE COMPLAINANT.

39 23-215. Employment of unauthorized workers; failure to comply
40 with cease and desist order; civil cause of action

41 A. IF AN EMPLOYER FAILS TO COMPLY WITH THE CEASE AND DESIST ORDER
42 UNDER SECTION 23-214, THE ATTORNEY GENERAL MAY BRING A CIVIL CAUSE OF ACTION
43 TO ASSESS A CIVIL PENALTY OF UP TO FIVE THOUSAND DOLLARS AND TO HAVE THE
44 EMPLOYER'S LICENSE SUSPENDED OR REVOKED. IF THE COURT DETERMINES THAT THE
45 EMPLOYER FAILED TO COMPLY WITH THE CEASE AND DESIST ORDER, THE COURT MAY

1 ORDER THE EMPLOYER'S LICENSE TO BE SUSPENDED OR REVOKED BASED ON THE SEVERITY
2 OF THE OFFENSE, EXCEPT THAT IF THE LICENSE IS ISSUED PURSUANT TO RULES
3 ADOPTED BY THE SUPREME COURT THE COURT SHALL REFER THE MATTER TO THE SUPREME
4 COURT TO DETERMINE WHETHER THE LICENSE SHALL BE SUSPENDED OR REVOKED. IF THE
5 COURT ORDERS AN EMPLOYER'S LICENSE TO BE SUSPENDED OR REVOKED, THE COURT
6 SHALL SUSPEND OR REVOKE THE EMPLOYER'S LICENSE IN ORDER TO PREVENT THE
7 EMPLOYER FROM CONDUCTING BUSINESS AT THE BUSINESS LOCATION WHERE THE
8 UNAUTHORIZED WORKER WHO IS IDENTIFIED IN THE CEASE AND DESIST ORDER IS
9 EMPLOYED. IF THE COURT ORDERS AN EMPLOYER'S LICENSE TO BE SUSPENDED OR
10 REVOKED PURSUANT TO THIS SECTION, THE COURT SHALL NOTIFY THE APPROPRIATE
11 AGENCY AND, NOTWITHSTANDING SECTIONS 41-1064 AND 41-1092.11, THE APPROPRIATE
12 AGENCY SHALL IMMEDIATELY SUSPEND THE EMPLOYER'S LICENSE FOR THE TIME PERIOD
13 SPECIFIED BY THE COURT OR REVOKE THE EMPLOYER'S LICENSE.

14 B. IF AN EMPLOYER HAS A LICENSE REVOKED UNDER SUBSECTION A OF THIS
15 SECTION, AN AGENCY SHALL NOT ISSUE A NEW LICENSE TO THE EMPLOYER UNTIL TWO
16 YEARS AFTER THE DATE OF REVOCATION.

17 C. THE COURT SHALL COLLECT THE CIVIL PENALTY PRESCRIBED IN SUBSECTION
18 A OF THIS SECTION AND REMIT THE CIVIL PENALTY TO THE SUPREME COURT, WHICH
19 SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE CIVIL PENALTY IN
20 THE BORDER SECURITY FUND ESTABLISHED BY SECTION 41-2351.

21 D. THIS SECTION DOES NOT REQUIRE THE COURT TO ORDER THE SUSPENSION OR
22 REVOCATION OF EVERY LICENSE THAT IS ISSUED TO THE EMPLOYER.

23 23-216. Indemnification for employer actions

24 IF ANY ADMINISTRATIVE OR JUDICIAL ACTION IS BROUGHT AGAINST AN EMPLOYER
25 AS A RESULT OF THE EMPLOYER'S GOOD FAITH ACTIONS IN COMPLIANCE WITH THIS
26 ARTICLE OR ANY ORDER, DETERMINATION OR NOTICE UNDER THIS ARTICLE, THE STATE
27 SHALL INDEMNIFY THE EMPLOYER AND PAY THE ACTUAL DAMAGES AND COSTS, INCLUDING
28 ATTORNEY FEES, INCURRED BY THE EMPLOYER IN THE DEFENSE OF THE ADMINISTRATIVE
29 OR JUDICIAL ACTION. THE STATE SHALL VERIFY AND PAY THE AMOUNT WITHIN
30 FORTY-FIVE DAYS AFTER THE EMPLOYER SUBMITS THE ACTUAL DAMAGES AND COSTS TO
31 THE STATE.

32 23-217. Expedited consideration

33 FOR ANY ACTION UNDER THIS ARTICLE, THE COURT SHALL EXPEDITE THE ACTION,
34 INCLUDING ASSIGNING THE ACTION FOR HEARING AT THE EARLIEST PRACTICABLE DATE.

35 23-218. Employer actions; federal law compliance

36 THIS ARTICLE DOES NOT REQUIRE AN EMPLOYER TO TAKE ANY ACTION THAT THE
37 EMPLOYER BELIEVES IN GOOD FAITH WOULD VIOLATE FEDERAL LAW.

38 ARTICLE 2.1. UNLAWFUL EMPLOYMENT PRACTICES

39 23-221. Definitions

40 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

41 1. "AGENCY" MEANS ANY AGENCY, DEPARTMENT, BOARD OR COMMISSION OF THIS
42 STATE OR A COUNTY, CITY OR TOWN THAT ISSUES A LICENSE FOR PURPOSES OF
43 OPERATING A BUSINESS IN THIS STATE.

44 2. "EMPLOYER" MEANS ANY INDIVIDUAL OR TYPE OF ORGANIZATION, INCLUDING
45 THIS STATE AND ALL OF ITS POLITICAL SUBDIVISIONS, THAT HAS IN ITS EMPLOY ONE

1 OR MORE INDIVIDUALS PERFORMING SERVICES FOR IT IN EMPLOYMENT AND INCLUDES
2 SELF-EMPLOYED PERSONS.

3 3. "KNOWINGLY" MEANS, WITH RESPECT TO CONDUCT OR TO A CIRCUMSTANCE
4 DESCRIBED BY A STATUTE DEFINING AN OFFENSE, THAT A PERSON IS AWARE OR
5 BELIEVES THAT THE PERSON'S CONDUCT IS OF THAT NATURE OR THAT THE CIRCUMSTANCE
6 EXISTS.

7 4. "LICENSE" MEANS ANY AGENCY PERMIT, CERTIFICATE, APPROVAL,
8 REGISTRATION, CHARTER OR SIMILAR FORM OF AUTHORIZATION THAT IS REQUIRED BY
9 LAW AND THAT IS ISSUED BY ANY AGENCY FOR THE PURPOSES OF OPERATING A BUSINESS
10 IN THIS STATE.

11 23-222. Unlawful employment practices; civil penalty;
12 classification

13 A. ALL EMPLOYERS IN THIS STATE SHALL COMPLETE AND RETAIN I-9
14 EMPLOYMENT ELIGIBILITY VERIFICATION FORMS FOR ALL EMPLOYEES AS PRESCRIBED BY
15 FEDERAL LAW. IF THE ATTORNEY GENERAL DETERMINES THAT AN EMPLOYER HAS FAILED
16 TO COMPLETE AND RETAIN I-9 EMPLOYMENT ELIGIBILITY VERIFICATION FORMS AS
17 PRESCRIBED BY FEDERAL LAW, THE ATTORNEY GENERAL SHALL NOTIFY THE UNITED
18 STATES CITIZENSHIP AND IMMIGRATION SERVICES.

19 B. THE ATTORNEY GENERAL SHALL COORDINATE WITH THE DEPARTMENT OF
20 ECONOMIC SECURITY, THE INDUSTRIAL COMMISSION AND THE DEPARTMENT OF REVENUE TO
21 INVESTIGATE EMPLOYERS IN THIS STATE THAT FAIL TO MAKE PAYMENTS OF
22 CONTRIBUTIONS FOR EMPLOYMENT SECURITY PURPOSES PURSUANT TO SECTION 23-726,
23 SECURE WORKERS' COMPENSATION TO THEIR EMPLOYEES PURSUANT TO SECTION 23-961
24 AND WITHHOLD FROM EMPLOYEES THE AMOUNTS REQUIRED PURSUANT TO SECTION 43-401.

25 C. IF THE ATTORNEY GENERAL DETERMINES SUFFICIENT EVIDENCE EXISTS THAT
26 AN EMPLOYER HAS KNOWINGLY FAILED TO MAKE PAYMENTS OF CONTRIBUTIONS FOR
27 EMPLOYMENT SECURITY PURPOSES PURSUANT TO SECTION 23-726, SECURE WORKERS'
28 COMPENSATION TO ITS EMPLOYEES PURSUANT TO SECTION 23-961 AND WITHHOLD FROM
29 EMPLOYEES THE AMOUNTS REQUIRED PURSUANT TO SECTION 43-401, THE FOLLOWING
30 APPLY FOR A FIRST VIOLATION DURING A ONE YEAR PERIOD:

31 1. THE ATTORNEY GENERAL SHALL MAIL A WRITTEN NOTICE TO THE EMPLOYER BY
32 CERTIFIED MAIL DESCRIBING THE VIOLATION.

33 2. WITHIN THIRTY DAYS AFTER RECEIVING THE NOTICE UNDER PARAGRAPH 1 OF
34 THIS SUBSECTION, THE EMPLOYER MAY CONTEST THE ATTORNEY GENERAL'S
35 DETERMINATION BY NOTIFYING THE ATTORNEY GENERAL. AFTER THE EMPLOYER NOTIFIES
36 THE ATTORNEY GENERAL THAT THE EMPLOYER IS CONTESTING THE ATTORNEY GENERAL'S
37 DETERMINATION, THE EMPLOYER SHALL PROVIDE SUPPORTING EVIDENCE TO THE ATTORNEY
38 GENERAL THAT THE EMPLOYER DID NOT VIOLATE THIS SUBSECTION. THE ATTORNEY
39 GENERAL SHALL ALLOW A REASONABLE AMOUNT OF TIME FOR THE EMPLOYER TO OBTAIN
40 COPIES OF SUPPORTING INFORMATION AND DOCUMENTS FROM FEDERAL AND STATE
41 AGENCIES.

42 3. AFTER RECEIVING SUPPORTING EVIDENCE UNDER PARAGRAPH 2 OF THIS
43 SUBSECTION, THE ATTORNEY GENERAL SHALL EVALUATE THE EVIDENCE AND SHALL ISSUE
44 A FINAL DETERMINATION THAT EITHER AFFIRMS THE ORIGINAL DETERMINATION OR
45 DISMISSES THE ORIGINAL DETERMINATION. THE ATTORNEY GENERAL SHALL MAIL THE

1 FINAL DETERMINATION BY CERTIFIED MAIL TO THE EMPLOYER WITHIN SIXTY DAYS AFTER
2 RECEIVING THE SUPPORTING EVIDENCE.

3 4. WITHIN TEN BUSINESS DAYS AFTER RECEIVING THE FINAL DETERMINATION
4 UNDER PARAGRAPH 3 OF THIS SUBSECTION, THE EMPLOYER MAY:

5 (a) REQUEST A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

6 (b) SERVE A NOTICE OF CONTEST OF THE FINAL DETERMINATION, IN WHICH
7 CASE THE ATTORNEY GENERAL MAY BRING AN ACTION IN SUPERIOR COURT, ADJUDICATED
8 ON A TRIAL DE NOVO BASIS, SEEKING TO ENFORCE THE FINAL DETERMINATION.

9 5. IF THE EMPLOYER REQUESTS A HEARING OR SERVES A NOTICE OF CONTEST
10 PURSUANT TO PARAGRAPH 4 OF THIS SUBSECTION, THE FINAL DETERMINATION IS NOT
11 EFFECTIVE UNTIL TEN BUSINESS DAYS AFTER THE EXPIRATION OF ANY TIME PERIOD TO
12 APPEAL FROM THE FINAL ADMINISTRATIVE DECISION OF THE OFFICE OF ADMINISTRATIVE
13 HEARINGS OR THE DECISION OF THE SUPERIOR COURT AND ANY SUBSEQUENT APPEALS.

14 6. IF THE OUTCOME OF THE DETERMINATION AND APPEALS PROCESS UNDER
15 PARAGRAPHS 2 THROUGH 5 OF THIS SUBSECTION AFFIRMS THE VIOLATION, THE EMPLOYER
16 IS SUBJECT TO A CIVIL PENALTY. THE CIVIL PENALTY IS TWO THOUSAND DOLLARS FOR
17 EACH EMPLOYEE FOR WHICH THE EMPLOYER KNOWINGLY FAILED TO COMPLY WITH THIS
18 SUBSECTION, BUT NOT TO EXCEED TEN THOUSAND DOLLARS. THE ATTORNEY GENERAL
19 SHALL TRANSMIT THE MONIES RECEIVED PURSUANT TO THIS PARAGRAPH TO THE STATE
20 TREASURER AND THE STATE TREASURER SHALL DEPOSIT THE MONIES IN THE BORDER
21 SECURITY FUND ESTABLISHED BY SECTION 41-2351.

22 7. AN EMPLOYER WHO IS SUBJECT TO A CIVIL PENALTY UNDER PARAGRAPH 6 OF
23 THIS SUBSECTION IS SUBJECT TO AN ADDITIONAL PENALTY. THE AMOUNT OF THE
24 ADDITIONAL PENALTY IS EQUAL TO THE AMOUNT OF REVENUE, INCLUDING INTEREST,
25 THAT WAS LOST TO THIS STATE FOR FAILING TO MAKE PAYMENTS OF CONTRIBUTIONS FOR
26 EMPLOYMENT SECURITY PURPOSES PURSUANT TO SECTION 23-726, SECURE WORKERS'
27 COMPENSATION TO EMPLOYEES PURSUANT TO SECTION 23-961 AND WITHHOLD FROM
28 EMPLOYEES THE AMOUNTS REQUIRED PURSUANT TO SECTION 43-401. THE ATTORNEY
29 GENERAL SHALL TRANSMIT THE MONIES RECEIVED PURSUANT TO THIS PARAGRAPH TO THE
30 STATE TREASURER FOR DEPOSIT IN THE BORDER SECURITY FUND ESTABLISHED BY
31 SECTION 41-2351.

32 D. THE FOLLOWING APPLY FOR A SECOND VIOLATION BY AN EMPLOYER WHO
33 KNOWINGLY FAILS TO MAKE PAYMENTS OF CONTRIBUTIONS FOR EMPLOYMENT SECURITY
34 PURPOSES PURSUANT TO SECTION 23-726, SECURE WORKERS' COMPENSATION TO ITS
35 EMPLOYEES PURSUANT TO SECTION 23-961 AND WITHHOLD FROM EMPLOYEES THE AMOUNTS
36 REQUIRED PURSUANT TO SECTION 43-401 DURING A ONE YEAR PERIOD:

37 1. A SECOND VIOLATION IS A CLASS 1 MISDEMEANOR. THE EMPLOYER IS NOT
38 SUBJECT TO PROSECUTION FOR A SECOND VIOLATION UNLESS THE PROCESS DESCRIBED
39 UNDER SUBSECTION C OF THIS SECTION IS COMPLETED.

40 2. ON CONVICTION, THE COURT MAY ORDER THAT THE EMPLOYER'S LICENSE BE
41 SUSPENDED BASED ON THE SEVERITY OF THE OFFENSE, EXCEPT THAT IF THE LICENSE IS
42 ISSUED PURSUANT TO RULES ADOPTED BY THE SUPREME COURT THE COURT SHALL REFER
43 THE MATTER TO THE SUPREME COURT TO DETERMINE WHETHER THE LICENSE SHALL BE
44 SUSPENDED OR REVOKED. IF THE COURT SUSPENDS A LICENSE PURSUANT TO THIS
45 SUBSECTION, THE COURT SHALL NOTIFY THE APPROPRIATE AGENCY AND,

1 NOTWITHSTANDING SECTIONS 41-1064 AND 41-1092.11, THE APPROPRIATE AGENCY SHALL
2 IMMEDIATELY SUSPEND THE EMPLOYER'S LICENSE FOR THE TIME PERIOD SPECIFIED BY
3 THE COURT.

4 3. ON CONVICTION, THE COURT SHALL ORDER THE EMPLOYER TO PAY AN
5 ADDITIONAL ASSESSMENT. THE ADDITIONAL ASSESSMENT IS FOUR THOUSAND DOLLARS
6 FOR EACH EMPLOYEE FOR WHOM THE EMPLOYER KNOWINGLY FAILED TO COMPLY WITH THIS
7 SECTION. THE COURT SHALL TRANSMIT THE MONIES COLLECTED PURSUANT TO THIS
8 PARAGRAPH TO THE STATE TREASURER FOR DEPOSIT IN THE BORDER SECURITY FUND
9 ESTABLISHED BY SECTION 41-2351.

10 4. ON CONVICTION, THE COURT SHALL ALSO ORDER THE EMPLOYER TO PAY AN
11 ADDITIONAL ASSESSMENT THAT IS EQUAL TO TWO TIMES THE AMOUNT OF REVENUE,
12 INCLUDING INTEREST, THAT WAS LOST TO THIS STATE FOR FAILING TO MAKE PAYMENTS
13 OF CONTRIBUTIONS FOR EMPLOYMENT SECURITY PURPOSES PURSUANT TO SECTION 23-726,
14 SECURE WORKERS' COMPENSATION TO EMPLOYEES PURSUANT TO SECTION 23-961 AND
15 WITHHOLD FROM EMPLOYEES THE AMOUNTS REQUIRED PURSUANT TO SECTION 43-401. THE
16 COURT SHALL TRANSMIT THE MONIES RECEIVED PURSUANT TO THIS PARAGRAPH TO THE
17 STATE TREASURER FOR DEPOSIT IN THE BORDER SECURITY FUND ESTABLISHED BY
18 SECTION 41-2351.

19 E. THE FOLLOWING APPLY FOR A THIRD VIOLATION BY AN EMPLOYER WHO
20 KNOWINGLY FAILS TO MAKE PAYMENTS OF CONTRIBUTIONS FOR EMPLOYMENT SECURITY
21 PURPOSES PURSUANT TO SECTION 23-726, SECURE WORKERS' COMPENSATION TO ITS
22 EMPLOYEES PURSUANT TO SECTION 23-961 AND WITHHOLD FROM EMPLOYEES THE AMOUNTS
23 REQUIRED PURSUANT TO SECTION 43-401 DURING A ONE YEAR PERIOD:

24 1. A THIRD VIOLATION IS A CLASS 1 MISDEMEANOR AND THE COURT SHALL
25 SENTENCE THE EMPLOYER TO SERVE THE MAXIMUM SENTENCE AUTHORIZED BY LAW. THE
26 EMPLOYER IS NOT SUBJECT TO PROSECUTION FOR A THIRD VIOLATION UNLESS THE
27 PROCESS DESCRIBED UNDER SUBSECTIONS C AND D OF THIS SECTION IS COMPLETED.

28 2. ON CONVICTION, THE COURT MAY ORDER THAT THE EMPLOYER'S LICENSE BE
29 SUSPENDED OR REVOKED BASED ON THE SEVERITY OF THE OFFENSE, EXCEPT THAT IF THE
30 LICENSE IS ISSUED PURSUANT TO RULES ADOPTED BY THE SUPREME COURT THE COURT
31 SHALL REFER THE MATTER TO THE SUPREME COURT TO DETERMINE WHETHER THE LICENSE
32 SHALL BE SUSPENDED OR REVOKED. IF THE COURT SUSPENDS OR REVOKES A LICENSE
33 PURSUANT TO THIS SUBSECTION, THE COURT SHALL NOTIFY THE APPROPRIATE AGENCY
34 AND, NOTWITHSTANDING SECTIONS 41-1064 AND 41-1092.11, THE APPROPRIATE AGENCY
35 SHALL IMMEDIATELY SUSPEND THE EMPLOYER'S LICENSE FOR THE TIME PERIOD
36 SPECIFIED BY THE COURT OR REVOKE THE EMPLOYER'S LICENSE. IF AN EMPLOYER HAS
37 A LICENSE REVOKED PURSUANT TO THIS PARAGRAPH, AN AGENCY SHALL NOT ISSUE A NEW
38 LICENSE TO THE EMPLOYER UNTIL TWO YEARS AFTER THE DATE OF REVOCATION.

39 3. ON CONVICTION, THE COURT SHALL ORDER THE EMPLOYER TO PAY AN
40 ADDITIONAL ASSESSMENT. THE ADDITIONAL ASSESSMENT IS SIX THOUSAND DOLLARS FOR
41 EACH EMPLOYEE FOR WHOM THE EMPLOYER KNOWINGLY FAILED TO COMPLY WITH THIS
42 SECTION. THE COURT SHALL TRANSMIT THE MONIES COLLECTED PURSUANT TO THIS
43 PARAGRAPH TO THE STATE TREASURER FOR DEPOSIT IN THE BORDER SECURITY FUND
44 ESTABLISHED BY SECTION 41-2351.

1 4. ON CONVICTION, THE COURT SHALL ALSO ORDER THE EMPLOYER TO PAY AN
2 ADDITIONAL ASSESSMENT THAT IS EQUAL TO THREE TIMES THE AMOUNT OF REVENUE,
3 INCLUDING INTEREST, THAT WAS LOST TO THIS STATE FOR FAILING TO MAKE PAYMENTS
4 OF CONTRIBUTIONS FOR EMPLOYMENT SECURITY PURPOSES PURSUANT TO SECTION 23-726,
5 SECURE WORKERS' COMPENSATION TO EMPLOYEES PURSUANT TO SECTION 23-961 AND
6 WITHHOLD FROM EMPLOYEES THE AMOUNTS REQUIRED PURSUANT TO SECTION 43-401. THE
7 COURT SHALL TRANSMIT THE MONIES RECEIVED PURSUANT TO THIS PARAGRAPH TO THE
8 STATE TREASURER FOR DEPOSIT IN THE BORDER SECURITY FUND ESTABLISHED BY
9 SECTION 41-2351.

10 5. THE ATTORNEY GENERAL SHALL RECORD THE JUDGMENT OF THE COURT, IF
11 UNPAID WITHIN TEN BUSINESS DAYS, AS A LIEN AGAINST THE EMPLOYER.

12 F. LAW ENFORCEMENT AUTHORITIES SHALL NOT PROVIDE ANY INCENTIVES TO LAW
13 ENFORCEMENT OFFICERS FOR INVESTIGATING ALLEGED VIOLATIONS OF THIS SECTION.

14 G. THE PENALTIES UNDER THIS SECTION ARE IN ADDITION TO ANY OTHER
15 PENALTIES THAT MAY BE IMPOSED BY LAW.

16 H. BEFORE THE ATTORNEY GENERAL BEGINS AN INVESTIGATION UNDER THIS
17 SECTION THAT IS BASED ON A COMPLAINT MADE TO THE ATTORNEY GENERAL'S OFFICE,
18 THE ATTORNEY GENERAL SHALL REQUIRE THAT THE COMPLAINT BE IN WRITING AND BE
19 SIGNED BY THE COMPLAINANT.

20 23-223. Indemnification for employer actions

21 IF ANY ADMINISTRATIVE OR JUDICIAL ACTION IS BROUGHT AGAINST AN EMPLOYER
22 AS A RESULT OF THE EMPLOYER'S GOOD FAITH ACTIONS IN COMPLIANCE WITH THIS
23 ARTICLE OR ANY ORDER, DETERMINATION OR NOTICE UNDER THIS ARTICLE, THE STATE
24 SHALL INDEMNIFY THE EMPLOYER AND PAY THE ACTUAL DAMAGES AND COSTS, INCLUDING
25 ATTORNEY FEES, INCURRED BY THE EMPLOYER IN THE DEFENSE OF THE ADMINISTRATIVE
26 OR JUDICIAL ACTION. THE STATE SHALL VERIFY AND PAY THE AMOUNT WITHIN
27 FORTY-FIVE DAYS AFTER THE EMPLOYER SUBMITS THE ACTUAL DAMAGES AND COSTS TO
28 THE STATE.

29 23-224. Expedited consideration

30 FOR ANY ACTION UNDER THIS ARTICLE, THE COURT SHALL EXPEDITE THE ACTION,
31 INCLUDING ASSIGNING THE ACTION FOR HEARING AT THE EARLIEST PRACTICABLE DATE.

32 23-225. Employer actions; federal law compliance

33 THIS ARTICLE DOES NOT REQUIRE AN EMPLOYER TO TAKE ANY ACTION THAT THE
34 EMPLOYER BELIEVES IN GOOD FAITH WOULD VIOLATE FEDERAL LAW.

35 Sec. 12. Section 26-172, Arizona Revised Statutes, is amended to read:

36 26-172. Emergency mobilization; requests by municipalities for
37 aid of national guard; mobilization into United
38 States service

39 A. When the governor proclaims an emergency, or deems it necessary to
40 protect lives or property, the governor may mobilize all or any part of the
41 national guard or the unorganized militia into service of the state. The
42 order directing the national guard or the unorganized militia, or any part
43 thereof, to report for active duty shall state the purpose for which it is
44 mobilized and the objectives to be accomplished. IF THE GOVERNOR DECLARES
45 THAT A STATE OF EMERGENCY EXISTS FOR THE PROTECTION OF THE LIVES OR PROPERTY

1 OF CITIZENS OF THIS STATE RESULTING FROM AN INCREASE IN UNAUTHORIZED BORDER
2 CROSSINGS AND THE RELATED INCREASE IN DEATHS, CRIME OR PROPERTY DAMAGE, THE
3 GOVERNOR MAY MOBILIZE THE NATIONAL GUARD TO ADDRESS THE EMERGENCY BY ACTIVELY
4 PERFORMING ONLY DUTIES DIRECTLY RELATED TO BORDER SECURITY.

5 B. The adjutant general shall issue orders for mobilization, appoint
6 troop commanders and act as chief of staff to the governor. The adjutant
7 general ~~shall~~, with consent of the governor and in the name of the adjutant
8 general, SHALL issue orders designating local commanders, giving tactical and
9 administrative instructions, and defining the objectives of each mobilized
10 unit.

11 C. The civil authorities of a county or municipality requiring aid of
12 the national guard to quell any riot, insurrection or other civil disturbance
13 shall submit to the governor a written request for aid, setting forth the
14 particular object to be accomplished and the area affected. Upon receipt of
15 the request the governor may by proclamation mobilize all or any part of the
16 national guard or the unorganized militia, and the governor shall designate
17 the adjutant general or an officer of the national guard to take command of
18 the troops mobilized and to designate the troops to be used.

19 D. To request assistance of the national guard, or the unorganized
20 militia, or any part thereof in a search or rescue operation involving the
21 life or health of any person, the sheriff or other officer of a political
22 subdivision who is conducting the search or rescue operation shall by the
23 most rapid and suitable means of communication available convey the need to
24 the state director of emergency management for transmittal to the governor.
25 If the governor grants the request the sheriff or other officer ~~shall~~, within
26 two days, SHALL transmit a written confirmation of the request to the
27 governor.

28 E. If the president of the United States directs mobilization of the
29 national guard into the armed forces of the United States, the adjutant
30 general shall effect the mobilization speedily and in the manner prescribed.
31 Upon mobilization into the armed forces of the United States, the national
32 guard shall pass to federal control and shall not be subject to military laws
33 of the state until the time it reverts to control of the state.

34 Sec. 13. Title 26, chapter 2, Arizona Revised Statutes, is amended by
35 adding article 4, to read:

36 ARTICLE 4. BORDER RADAR

37 26-371. Border radar fund

38 A. THE BORDER RADAR FUND IS ESTABLISHED CONSISTING OF LEGISLATIVE
39 APPROPRIATIONS, MONIES RECEIVED FROM THE FEDERAL DEPARTMENT OF HOMELAND
40 SECURITY, GIFTS AND GRANTS TO THE FUND FOR BORDER RADAR ALONG THE SOUTHERN
41 BORDER OF ARIZONA.

42 B. THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS SHALL ADMINISTER
43 THE BORDER RADAR FUND AND MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

1 C. THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS
2 PROVIDED IN SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE
3 CREDITED TO THE FUND.

4 Sec. 14. Title 41, chapter 1, article 5, Arizona Revised Statutes, is
5 amended by adding section 41-199, to read:

6 41-199. Enforcement; unauthorized workers; unlawful employment
7 practices; report

8 A. THE ATTORNEY GENERAL SHALL SUBMIT A QUARTERLY REPORT TO THE
9 GOVERNOR, THE JOINT LEGISLATIVE BUDGET COMMITTEE AND THE JOINT LEGISLATIVE
10 COMMITTEE ON IMMIGRATION ESTABLISHED BY SECTION 41-1292.01 REGARDING THE
11 IMPLEMENTATION AND ENFORCEMENT OF THE FOLLOWING STATUTES:

12 1. EMPLOYMENT OF UNAUTHORIZED WORKERS PURSUANT TO TITLE 23, CHAPTER 2,
13 ARTICLE 2.

14 2. UNLAWFUL EMPLOYMENT PRACTICES PURSUANT TO TITLE 23, CHAPTER 2,
15 ARTICLE 2.1.

16 3. LICENSING ELIGIBILITY AND AUDITS PURSUANT TO CHAPTER 6, ARTICLE 7.2
17 OF THIS TITLE.

18 B. THE REPORT REQUIRED BY THIS SECTION SHALL INCLUDE THE FOLLOWING
19 INFORMATION:

20 1. THE NUMBER OF COMPLAINTS RECEIVED BY THE ATTORNEY GENERAL REGARDING
21 BUSINESSES THAT EMPLOY UNAUTHORIZED WORKERS OR THAT ENGAGE IN UNLAWFUL
22 EMPLOYMENT PRACTICES IN THIS STATE.

23 2. THE NUMBER OF EMPLOYERS THAT WERE INVESTIGATED BY THE ATTORNEY
24 GENERAL FOR EMPLOYING UNAUTHORIZED WORKERS OR ENGAGING IN UNLAWFUL EMPLOYMENT
25 PRACTICES IN THIS STATE.

26 3. THE NUMBER OF AUDITS CONDUCTED PURSUANT TO SECTION 41-1080.02 AND
27 THE RESULTS OF THOSE AUDITS.

28 4. THE NUMBER OF CEASE AND DESIST ORDERS THAT WERE ISSUED TO EMPLOYERS
29 PURSUANT TO SECTIONS 23-214 AND 41-1080.02.

30 5. THE NUMBER OF CIVIL CAUSES OF ACTION BROUGHT BY THE ATTORNEY
31 GENERAL TO ENFORCE THE CEASE AND DESIST ORDERS.

32 6. THE NUMBER OF LICENSES SUSPENDED OR REVOKED BY THE COURT.

33 7. THE AMOUNT OF CIVIL PENALTIES IMPOSED AGAINST EMPLOYERS FOR
34 KNOWINGLY EMPLOYING UNAUTHORIZED WORKERS OR ENGAGING IN UNLAWFUL EMPLOYMENT
35 PRACTICES IN THIS STATE.

36 C. THE ATTORNEY GENERAL SHALL SUBMIT A COPY OF THE REPORT TO THE
37 SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES
38 AND PUBLIC RECORDS.

39 Sec. 15. Section 41-763, Arizona Revised Statutes, is amended to read:
40 41-763. Powers and duties of the director relating to personnel

41 The director shall:

42 1. Appoint employees necessary to perform the duties prescribed by
43 this article.

1 2. Have authority for developing and administering a program of
2 personnel administration for the state service in conformance with the
3 personnel rules.

4 3. Have authority to establish such offices as may be necessary to
5 maintain an effective and economical program of personnel administration.

6 4. Have the power to depute employees in various state agencies
7 where certain of the functions of personnel administration can be performed
8 by such deputies.

9 5. Make an annual report and recommendation to the legislature and the
10 joint legislative budget committee as provided in section 41-763.01.

11 6. Adopt rules relating to personnel and personnel administration.

12 7. Subject to legislative appropriation, have the authority to
13 contract for the services of consultants necessary to perform the annual
14 salary plan and salary plan adjustment recommendations.

15 8. Establish a mandatory program of annual personnel management
16 training for all state employees with supervisory or managerial
17 responsibility that is appropriate to the nature and scope of the employees'
18 supervisory responsibilities. The director may waive the annual mandatory
19 training on a case by case basis. The training shall include at least the
20 following subjects:

21 (a) Basic employee supervisory or managerial skills.

22 (b) Establishing employee objectives and performance measures.

23 (c) Measuring employee performance and the use of performance
24 evaluation methods.

25 (d) Employee discipline training and discipline procedures.

26 (e) Other subjects as determined by the director.

27 9. VERIFY THE AUTHORIZATION FOR EMPLOYMENT IN THE UNITED STATES OF
28 EVERY STATE EMPLOYEE THROUGH THE BASIC EMPLOYMENT VERIFICATION PILOT PROGRAM
29 AS JOINTLY ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY
30 AND THE SOCIAL SECURITY ADMINISTRATION OR ITS SUCCESSOR PROGRAM. THIS
31 PARAGRAPH APPLIES ONLY TO EMPLOYEES WHO ARE HIRED AFTER THIS STATE HAS AGREED
32 TO THE MEMORANDUM OF UNDERSTANDING THAT IS REQUIRED TO PARTICIPATE IN THE
33 PILOT PROGRAM.

34 Sec. 16. Title 41, chapter 6, Arizona Revised Statutes, is amended by
35 adding article 7.2, to read:

36 ARTICLE 7.2. LICENSING ELIGIBILITY AND AUDITS

37 41-1080. Definitions

38 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

39 1. "AGENCY" MEANS ANY AGENCY, DEPARTMENT, BOARD OR COMMISSION OF THIS
40 STATE OR A COUNTY, CITY OR TOWN THAT ISSUES A LICENSE FOR PURPOSES OF
41 OPERATING A BUSINESS IN THIS STATE.

42 2. "BASIC PILOT PROGRAM" MEANS THE BASIC EMPLOYMENT VERIFICATION PILOT
43 PROGRAM AS JOINTLY ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOMELAND
44 SECURITY AND THE SOCIAL SECURITY ADMINISTRATION OR ITS SUCCESSOR PROGRAM.

1 4. MAY VERIFY THE EMPLOYMENT AUTHORIZATION OF THE EMPLOYER'S EMPLOYEES
2 THROUGH THE BASIC PILOT PROGRAM.

3 B. IF AN AUDIT DETERMINES THAT AN EMPLOYER KNOWINGLY EMPLOYS AN
4 UNAUTHORIZED WORKER, THE ATTORNEY GENERAL SHALL IMMEDIATELY:

5 1. ORDER THE EMPLOYER TO CEASE AND DESIST FROM EMPLOYING THE
6 UNAUTHORIZED WORKER AND TO DISCHARGE FOR CAUSE OTHER UNAUTHORIZED WORKERS WHO
7 ARE IDENTIFIED IN THE CEASE AND DESIST ORDER OR IN THE AUDIT AND WHO ARE
8 KNOWINGLY EMPLOYED BY THE EMPLOYER IN THIS STATE. THE CEASE AND DESIST ORDER
9 SHALL CONTAIN A NOTICE OF THE EMPLOYER'S RIGHTS TO CONTEST THE ORDER. THE
10 ATTORNEY GENERAL SHALL CONFIRM THAT THE EMPLOYER RECEIVED THE CEASE AND
11 DESIST ORDER BY CERTIFIED MAIL. THE EMPLOYER SHALL COMPLY WITH THE CEASE AND
12 DESIST ORDER WITHIN TEN BUSINESS DAYS AFTER THE ATTORNEY GENERAL CONFIRMS
13 THAT THE EMPLOYER RECEIVED THE ORDER, UNLESS THE EMPLOYER HAS FILED AN APPEAL
14 OF THE ATTORNEY GENERAL'S CEASE AND DESIST ORDER PURSUANT TO SUBSECTION C OF
15 THIS SECTION.

16 2. NOTIFY THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OF THE
17 UNAUTHORIZED WORKER.

18 C. WITHIN TEN BUSINESS DAYS AFTER RECEIVING A CEASE AND DESIST ORDER
19 UNDER SUBSECTION B OF THIS SECTION, THE EMPLOYER MAY EITHER:

20 1. REQUEST A HEARING PURSUANT TO CHAPTER 6, ARTICLE 10 OF THIS TITLE.

21 2. SERVE A NOTICE OF CONTEST OF THE CEASE AND DESIST ORDER, IN WHICH
22 CASE THE ATTORNEY GENERAL MAY BRING AN ACTION IN SUPERIOR COURT, ADJUDICATED
23 ON A TRIAL DE NOVO BASIS, SEEKING TO ENFORCE THE CEASE AND DESIST ORDER.

24 D. IF THE EMPLOYER REQUESTS A HEARING OR SERVES A NOTICE OF CONTEST
25 PURSUANT TO SUBSECTION C OF THIS SECTION, THE CEASE AND DESIST ORDER IS NOT
26 EFFECTIVE UNTIL TEN BUSINESS DAYS AFTER THE EXPIRATION OF ANY TIME PERIOD TO
27 APPEAL FROM THE FINAL ADMINISTRATIVE DECISION OF THE OFFICE OF ADMINISTRATIVE
28 HEARINGS OR THE DECISION OF THE SUPERIOR COURT AND ANY SUBSEQUENT APPEALS.

29 E. FOR THE PURPOSES OF THIS SECTION, PROOF OF EITHER OF THE FOLLOWING
30 CIRCUMSTANCES, UNLESS SATISFACTORILY EXPLAINED, CREATES A REBUTTABLE
31 PRESUMPTION THAT AN EMPLOYER KNOWINGLY EMPLOYED AN UNAUTHORIZED WORKER:

32 1. THE EMPLOYER VIOLATED THE MINIMUM WAGE REQUIREMENTS PRESCRIBED BY
33 THE FEDERAL FAIR LABOR STANDARDS ACT FOR THE EMPLOYEE WHO IS IDENTIFIED IN
34 THE CEASE AND DESIST ORDER.

35 2. THE EMPLOYER ACCEPTS A CONSULAR IDENTIFICATION CARD THAT IS ISSUED
36 BY A FOREIGN GOVERNMENT AS A FORM OF IDENTIFICATION WHEN DETERMINING THE
37 EMPLOYEE'S IDENTITY.

38 41-1080.03. Employment of unauthorized workers; failure to
39 comply with cease and desist order; civil cause
40 of action

41 A. IF AN EMPLOYER FAILS TO COMPLY WITH THE CEASE AND DESIST ORDER
42 UNDER SECTION 41-1080.02, THE ATTORNEY GENERAL MAY BRING A CIVIL CAUSE OF
43 ACTION TO ASSESS A CIVIL PENALTY OF UP TO FIVE THOUSAND DOLLARS AND TO HAVE
44 THE EMPLOYER'S LICENSE SUSPENDED OR REVOKED. IF THE COURT DETERMINES THAT
45 THE EMPLOYER FAILED TO COMPLY WITH THE CEASE AND DESIST ORDER, THE COURT MAY

1 ORDER THE EMPLOYER'S LICENSE TO BE SUSPENDED OR REVOKED BASED ON THE SEVERITY
2 OF THE OFFENSE, EXCEPT THAT IF THE LICENSE IS ISSUED PURSUANT TO RULES
3 ADOPTED BY THE SUPREME COURT THE COURT SHALL REFER THE MATTER TO THE SUPREME
4 COURT TO DETERMINE WHETHER THE LICENSE SHALL BE SUSPENDED OR REVOKED. IF THE
5 COURT ORDERS AN EMPLOYER'S LICENSE TO BE SUSPENDED OR REVOKED, THE COURT
6 SHALL SUSPEND OR REVOKE THE EMPLOYER'S LICENSE IN ORDER TO PREVENT THE
7 EMPLOYER FROM CONDUCTING BUSINESS AT THE BUSINESS LOCATION WHERE THE
8 UNAUTHORIZED WORKER WHO IS IDENTIFIED IN THE CEASE AND DESIST ORDER IS
9 EMPLOYED. IF THE COURT ORDERS AN EMPLOYER'S LICENSE TO BE SUSPENDED OR
10 REVOKED PURSUANT TO THIS SECTION, THE COURT SHALL NOTIFY THE APPROPRIATE
11 AGENCY AND, NOTWITHSTANDING SECTIONS 41-1064 AND 41-1092.11, THE APPROPRIATE
12 AGENCY SHALL IMMEDIATELY SUSPEND THE EMPLOYER'S LICENSE FOR THE TIME PERIOD
13 SPECIFIED BY THE COURT OR REVOKE THE EMPLOYER'S LICENSE.

14 B. IF AN EMPLOYER HAS A LICENSE REVOKED UNDER SUBSECTION A OF THIS
15 SECTION, AN AGENCY SHALL NOT ISSUE A NEW LICENSE TO THE EMPLOYER UNTIL TWO
16 YEARS AFTER THE DATE OF REVOCATION.

17 C. THE COURT SHALL COLLECT THE CIVIL PENALTY PRESCRIBED IN SUBSECTION
18 A OF THIS SECTION AND REMIT THE CIVIL PENALTY TO THE SUPREME COURT, WHICH
19 SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, THE CIVIL PENALTY IN
20 THE BORDER SECURITY FUND ESTABLISHED BY SECTION 41-2351.

21 D. THIS SECTION DOES NOT REQUIRE THE COURT TO ORDER THE SUSPENSION OR
22 REVOCATION OF EVERY LICENSE THAT IS ISSUED TO THE EMPLOYER.

23 41-1080.04. State indemnification for employer actions

24 IF ANY ADMINISTRATIVE OR JUDICIAL ACTION IS BROUGHT AGAINST AN EMPLOYER
25 AS A RESULT OF THE EMPLOYER'S GOOD FAITH ACTIONS IN COMPLIANCE WITH THIS
26 ARTICLE OR ANY ORDER, DETERMINATION OR NOTICE UNDER THIS ARTICLE, THE STATE
27 SHALL INDEMNIFY THE EMPLOYER AND PAY THE ACTUAL DAMAGES AND COSTS, INCLUDING
28 ATTORNEY FEES, INCURRED BY THE EMPLOYER IN THE DEFENSE OF THE ADMINISTRATIVE
29 OR JUDICIAL ACTION. THE STATE SHALL VERIFY AND PAY THE AMOUNT WITHIN
30 FORTY-FIVE DAYS AFTER THE EMPLOYER SUBMITS THE ACTUAL DAMAGES AND COSTS TO
31 THE STATE.

32 41-1080.05. Expedited consideration

33 FOR ANY ACTION UNDER THIS ARTICLE, THE COURT SHALL EXPEDITE THE ACTION,
34 INCLUDING ASSIGNING THE ACTION FOR HEARING AT THE EARLIEST PRACTICABLE DATE.

35 41-1080.06. Employer actions; federal law compliance

36 THIS ARTICLE DOES NOT REQUIRE AN EMPLOYER TO TAKE ANY ACTION THAT THE
37 EMPLOYER BELIEVES IN GOOD FAITH WOULD VIOLATE FEDERAL LAW.

38 Sec. 17. Title 41, chapter 7, article 12, Arizona Revised Statutes, is
39 amended by adding section 41-1292.01, to read:

40 41-1292.01. Joint legislative committee on immigration

41 A. THE JOINT LEGISLATIVE COMMITTEE ON IMMIGRATION IS ESTABLISHED. THE
42 COMMITTEE CONSISTS OF:

43 1. THREE MEMBERS OF THE SENATE WHO ARE APPOINTED BY THE PRESIDENT OF
44 THE SENATE, NO MORE THAN TWO OF WHOM ARE MEMBERS OF THE SAME POLITICAL PARTY.

1 2. THREE MEMBERS OF THE HOUSE OF REPRESENTATIVES WHO ARE APPOINTED BY
2 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, NO MORE THAN TWO OF WHOM ARE
3 MEMBERS OF THE SAME POLITICAL PARTY.

4 B. THE COMMITTEE SHALL REVIEW THE REPORTS RECEIVED FROM THE ATTORNEY
5 GENERAL PURSUANT TO SECTION 41-199 AND SHALL REVIEW THE IMPLEMENTATION AND
6 ENFORCEMENT OF THE FOLLOWING STATUTES:

7 1. ENFORCEMENT OF IMMIGRATION LAWS PURSUANT TO TITLE 11, CHAPTER 7,
8 ARTICLE 8.

9 2. TRESPASSING BY ILLEGAL ALIENS PURSUANT TO SECTION 13-1509.

10 3. SMUGGLING OF HUMAN BEINGS PURSUANT TO SECTION 13-2319.

11 4. BORDER RADAR PURSUANT TO TITLE 26, CHAPTER 2, ARTICLE 4.

12 5. ARIZONA BORDER ENFORCEMENT SECURITY TEAM PURSUANT TO CHAPTER 20 OF
13 THIS TITLE.

14 6. SECURE AND VERIFIABLE IDENTIFICATION PURSUANT TO CHAPTER 41 OF THIS
15 TITLE.

16 C. THE COMMITTEE SHALL ANNUALLY MAKE RECOMMENDATIONS TO THE
17 LEGISLATURE THAT WILL SECURE THE BORDERS, PREVENT UNAUTHORIZED BORDER
18 CROSSINGS AND IMPROVE THE ENFORCEMENT OF IMMIGRATION LAWS IN THIS STATE.

19 D. THE COMMITTEE SHALL SUBMIT A REPORT WITH ITS RECOMMENDATIONS ON OR
20 BEFORE DECEMBER 1 OF EACH YEAR TO THE GOVERNOR, THE PRESIDENT OF THE SENATE
21 AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

22 E. THE COMMITTEE SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY
23 OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC
24 RECORDS.

25 Sec. 18. Section 41-1376, Arizona Revised Statutes, is amended to
26 read:

27 41-1376. Powers and duties

28 A. The ombudsman-citizens aide shall:

29 1. Investigate the administrative acts of agencies pursuant to section
30 41-1377, subsections A and B except as provided in section 41-1377,
31 subsections C, D and E. The ombudsman-citizens aide shall investigate the
32 administrative acts of an agency without regard to the finality of the
33 administrative act.

34 2. Annually before January 1 prepare a written report to the governor,
35 the legislature and the public that contains a summary of the
36 ombudsman-citizens aide's activities during the previous fiscal year. The
37 ombudsman-citizens aide shall semiannually present this report before the
38 legislative council. This report shall include:

39 (a) The ombudsman-citizens aide's mission statement.

40 (b) The number of matters that were within each of the categories
41 specified in section 41-1379, subsection B.

42 (c) Legislative issues affecting the ombudsman-citizens aide.

43 (d) Selected case studies that illustrate the ombudsman-citizens
44 aide's work and reasons for complaints.

1 (e) Ombudsman-citizens aide's contact statistics.

2 (f) Ombudsman-citizens aide's staff.

3 3. Before conducting the first investigation, adopt rules that ensure
4 that confidential information that is gathered will not be disclosed.

5 4. Appoint a deputy ombudsman and prescribe the duties of employees
6 or, subject to appropriation, contract for the services of independent
7 contractors necessary to administer the duties of the office of
8 ombudsman-citizens aide. All staff serves at the pleasure of the
9 ombudsman-citizens aide, and they are exempt from chapter 4, articles 5 and 6
10 of this title. All staff shall be subject to the conflict of interest
11 provisions of title 38, chapter 3, article 8.

12 5. Before conducting the first investigation, adopt rules that
13 establish procedures for receiving and processing complaints, including
14 guidelines to ensure each complainant has exhausted all reasonable
15 alternatives within the agency, conducting investigations, incorporating
16 agency responses into recommendations and reporting findings.

17 6. Notify the chief executive or administrative officer of the agency
18 in writing of the intention to investigate unless notification would unduly
19 hinder the investigation or make the investigation ineffectual.

20 7. Appoint an assistant to help the ombudsman-citizens aide
21 investigate complaints relating to child protective services in the
22 department of economic security. The assistant shall have expertise in child
23 protective services procedures and laws. Notwithstanding any law to the
24 contrary, the ombudsman-citizens aide and the assistant have access to child
25 protective services records and to any automated case management system used
26 by child protective services in the department of economic security.

27 8. APPOINT AN IMMIGRATION OMBUDSMAN-CITIZENS AIDE WHO SHALL RECEIVE
28 COMPLAINTS AND PROVIDE IMMIGRATION INFORMATION TO EMPLOYERS PURSUANT TO
29 SECTION 41-1384. THE IMMIGRATION OMBUDSMAN-CITIZENS AIDE SERVES AT THE
30 PLEASURE OF THE OMBUDSMAN-CITIZENS AIDE.

31 B. After the conclusion of an investigation and notice to the head of
32 the agency pursuant to section 41-1379, the ombudsman-citizens aide may
33 present the ombudsman-citizens aide's opinion and recommendations to the
34 governor, the legislature, the office of the appropriate prosecutor or the
35 public, or any combination of these persons. The ombudsman-citizens aide
36 shall include in the opinion the reply of the agency, including those issues
37 that were resolved as a result of the ombudsman-citizens aide's preliminary
38 opinion or recommendation.

39 Sec. 19. Title 41, chapter 8, article 5, Arizona Revised Statutes, is
40 amended by adding section 41-1384, to read:

41 41-1384. Immigration ombudsman-citizens aide; assistance with
42 federal immigration laws and employee verification;
43 definitions

44 A. THE IMMIGRATION OMBUDSMAN-CITIZENS AIDE SHALL PROVIDE EMPLOYERS
45 WITH INFORMATION THAT HELPS EMPLOYERS TO COMPLY WITH FEDERAL IMMIGRATION

1 LAWS, TITLE 23, CHAPTER 2, ARTICLES 2 AND 2.1 AND CHAPTER 6, ARTICLE 7.2 OF
2 THIS TITLE. THE IMMIGRATION OMBUDSMAN-CITIZENS AIDE SHALL PROVIDE ASSISTANCE
3 TO EMPLOYERS TO ENROLL IN AND USE THE BASIC PILOT PROGRAM.

4 B. FOR THE PURPOSES OF THIS SECTION:

5 1. "BASIC PILOT PROGRAM" MEANS THE BASIC EMPLOYMENT VERIFICATION PILOT
6 PROGRAM AS JOINTLY ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOMELAND
7 SECURITY AND THE SOCIAL SECURITY ADMINISTRATION OR ITS SUCCESSOR PROGRAM.

8 2. "EMPLOYER" MEANS ANY INDIVIDUAL OR TYPE OF ORGANIZATION, INCLUDING
9 THIS STATE AND ALL OF ITS POLITICAL SUBDIVISIONS, THAT HAS IN ITS EMPLOY ONE
10 OR MORE INDIVIDUALS PERFORMING SERVICES FOR IT IN EMPLOYMENT AND INCLUDES
11 SELF-EMPLOYED PERSONS.

12 3. "UNAUTHORIZED WORKER" MEANS A PERSON WHO IS AN ALIEN AND WHO IS NOT
13 AUTHORIZED TO BE EMPLOYED UNDER FEDERAL LAW. FOR THE PURPOSES OF THIS
14 PARAGRAPH, "ALIEN" MEANS A PERSON WHO IS NOT A CITIZEN OR NATIONAL OF THE
15 UNITED STATES.

16 Sec. 20. Heading change

17 The article heading of title 41, chapter 12, article 1, Arizona Revised
18 Statutes, is changed from "DEFINITIONS" to "GENERAL PROVISIONS".

19 Sec. 21. Title 41, chapter 12, article 1, Arizona Revised Statutes, is
20 amended by adding section 41-1702, to read:

21 41-1702. Federal immigration laws; enforcement; memorandum;
22 program; definition

23 A. TO THE EXTENT PERMITTED BY FEDERAL LAW AND NOTWITHSTANDING ANY
24 OTHER STATE LAW, PEACE OFFICERS ARE FULLY AUTHORIZED TO INVESTIGATE OR
25 APPREHEND ILLEGAL ALIENS IN THE UNITED STATES, INCLUDING TRANSFERRING ILLEGAL
26 ALIENS TO FEDERAL LAW ENFORCEMENT AGENCIES AND TRANSPORTING ILLEGAL ALIENS
27 ACROSS STATE LINES TO DETENTION CENTERS, IN THE ENFORCEMENT OF THE
28 IMMIGRATION LAWS OF THE UNITED STATES.

29 B. THE DIRECTOR SHALL ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH
30 THE UNITED STATES DEPARTMENT OF JUSTICE OR THE UNITED STATES DEPARTMENT OF
31 HOMELAND SECURITY TO DESIGNATE OFFICERS AS IMMIGRATION OFFICERS QUALIFIED TO
32 INVESTIGATE, APPREHEND AND DETAIN ILLEGAL ALIENS IN THE UNITED STATES TO THE
33 FULLEST EXTENT CONSISTENT WITH STATE AND FEDERAL LAW.

34 C. THE DIRECTOR SHALL IMPLEMENT A PROGRAM TO TRAIN PEACE OFFICERS TO
35 INVESTIGATE VIOLATIONS OF FEDERAL IMMIGRATION LAWS.

36 D. THE REQUIREMENTS AND OBLIGATIONS OF THIS SECTION SHALL BE
37 IMPLEMENTED IN A MANNER FULLY CONSISTENT WITH FEDERAL LAW REGULATING
38 IMMIGRATION AND PROTECTING THE CIVIL RIGHTS OF CITIZENS AND ALIENS.

39 E. FOR THE PURPOSES OF THIS SECTION, "PEACE OFFICER" HAS THE SAME
40 MEANING PRESCRIBED IN SECTION 13-105.

1 I. THE TEAM SHALL:
2 1. AFTER REVIEW BY THE JOINT LEGISLATIVE BUDGET COMMITTEE, MAKE GRANTS
3 FROM ONE-HALF OF THE MONIES IN THE BORDER SECURITY FUND ESTABLISHED BY
4 SUBSECTION K OF THIS SECTION TO COUNTIES FOR INCARCERATION OPERATING
5 EXPENSES, INCLUDING TEMPORARY AND MOVABLE DETAINMENT FACILITIES, TENTS FOR
6 IMMIGRATION CONTROL AND OPERATING AND PERSONNEL COSTS FOR THE DETAINMENT
7 FACILITIES.
8 2. AFTER REVIEW BY THE JOINT LEGISLATIVE BUDGET COMMITTEE, MAKE GRANTS
9 FROM ONE-HALF OF THE MONIES IN THE BORDER SECURITY FUND ESTABLISHED BY
10 SUBSECTION K OF THIS SECTION TO CITY, TOWN AND COUNTY LAW ENFORCEMENT
11 AGENCIES, CITY AND TOWN PROSECUTORS AND COUNTY ATTORNEYS FOR BORDER SECURITY
12 PERSONNEL, PHYSICAL BARRIERS AND ANY OTHER IMMIGRATION ENFORCEMENT PURPOSES.
13 3. RECEIVE QUARTERLY REPORTS FROM THE ENTITIES RECEIVING GRANTS AND
14 EVALUATE THEIR EFFECTIVENESS.
15 4. ON OR BEFORE DECEMBER 1 OF EACH YEAR, SUBMIT TO THE GOVERNOR, THE
16 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
17 JOINT LEGISLATIVE BUDGET COMMITTEE A WRITTEN REPORT ON THE EFFECTIVENESS OF
18 THE GRANTS PROVIDED AND PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF
19 STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC
20 RECORDS.
21 J. THE TEAM SHALL NOT MAKE GRANTS TO ANY CITY, TOWN OR COUNTY THAT IS
22 NOT IN FULL COMPLIANCE WITH SECTION 11-1051, OR THAT HAS ANY SANCTUARY POLICY
23 INVOLVING ANY FORM OF AID TO ILLEGAL ALIENS OR ANY REDUCED ENFORCEMENT OF
24 ILLEGAL IMMIGRATION, AS DETERMINED BY THE TEAM.
25 K. THE BORDER SECURITY FUND IS ESTABLISHED CONSISTING OF CIVIL
26 PENALTIES DEPOSITED PURSUANT TO SECTIONS 13-1509, 23-215, 23-222 AND
27 41-1080.03, LEGISLATIVE APPROPRIATIONS, GIFTS AND GRANTS. THE TEAM SHALL
28 ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND
29 ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
30 APPROPRIATIONS. ON NOTICE FROM THE TEAM, THE STATE TREASURER SHALL INVEST
31 AND DIVEST MONIES IN THE FUND AS PROVIDED IN SECTION 35-313, AND MONIES
32 EARNED FROM INVESTMENTS SHALL BE CREDITED TO THE FUND.
33 Sec. 23. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
34 amended by adding section 41-3016.01, to read:
35 41-3016.01. Arizona border enforcement security team;
36 termination July 1, 2016
37 A. THE ARIZONA BORDER ENFORCEMENT SECURITY TEAM TERMINATES ON JULY 1,
38 2016.
39 B. TITLE 41, CHAPTER 20 IS REPEALED ON JANUARY 1, 2017.

- 1 1. A beneficiary's share of the fiduciary adjustment to the extent
2 that the amount determined by section 43-1333 increases the beneficiary's
3 Arizona gross income.
- 4 2. An amount equal to the "ordinary income portion" of a lump sum
5 distribution that was excluded from federal adjusted gross income pursuant to
6 section 402(d) of the internal revenue code.
- 7 3. The amount of interest income received on obligations of any state,
8 territory or possession of the United States, or any political subdivision
9 thereof, located outside the state of Arizona, reduced, for tax years
10 beginning from and after December 31, 1996, by the amount of any interest on
11 indebtedness and other related expenses that were incurred or continued to
12 purchase or carry those obligations and that are not otherwise deducted or
13 subtracted in arriving at Arizona gross income.
- 14 4. Annuity income received during the taxable year to the extent that
15 the sum of the proceeds received from such annuity in all taxable years prior
16 to and including the current taxable year exceeds the total consideration and
17 premiums paid by the taxpayer. This paragraph applies only to those
18 annuities with respect to which the first payment was received prior to
19 December 31, 1978.
- 20 5. The excess of a partner's share of partnership taxable income
21 required to be included under chapter 14, article 2 of this title over the
22 income required to be reported under section 702(a)(8) of the internal
23 revenue code.
- 24 6. The excess of a partner's share of partnership losses determined
25 pursuant to section 702(a)(8) of the internal revenue code over the losses
26 allowable under chapter 14, article 2 of this title.
- 27 7. The amount by which the adjusted basis of property described in
28 this paragraph and computed pursuant to the internal revenue code exceeds the
29 adjusted basis of such property computed pursuant to this title and the
30 income tax act of 1954, as amended. This paragraph shall apply to all
31 property which is held for the production of income and which is sold or
32 otherwise disposed of during the taxable year, except depreciable property
33 used in a trade or business.
- 34 8. The amount of depreciation or amortization of costs of any capital
35 investment that is deducted pursuant to section 167 or 179 of the internal
36 revenue code by a qualified defense contractor with respect to which an
37 election is made to amortize pursuant to section 43-1024.
- 38 9. The amount of gain from the sale or other disposition of a capital
39 investment which a qualified defense contractor has elected to amortize
40 pursuant to section 43-1024.
- 41 10. Amounts withdrawn from the Arizona state retirement system, the
42 corrections officer retirement plan, the public safety personnel retirement
43 system, the elected officials' retirement plan or a county or city retirement
44 plan by an employee upon termination of employment before retirement to the
45 extent they were deducted in arriving at Arizona taxable income in any year.

1 11. That portion of the net operating loss included in federal adjusted
2 gross income which has already been taken as a net operating loss for Arizona
3 purposes or which is separately taken as a subtraction under the special net
4 operating loss transition rule.

5 12. Any nonitemized amount deducted pursuant to section 170 of the
6 internal revenue code representing contributions to an educational
7 institution which denies admission, enrollment or board and room
8 accommodations on the basis of race, color or ethnic background except those
9 institutions primarily established for the education of American Indians.

10 13. The amount paid as taxes on property in this state with respect to
11 which a credit is claimed under section 43-1078.

12 14. Amounts withdrawn from a medical savings account by the individual
13 during the taxable year computed pursuant to section 220(f) of the internal
14 revenue code and not included in federal adjusted gross income.

15 15. Any amount of agricultural water conservation expenses that were
16 deducted pursuant to the internal revenue code for which a credit is claimed
17 under section 43-1084.

18 16. The amount by which the depreciation or amortization computed under
19 the internal revenue code with respect to property for which a credit was
20 taken under section 43-1080 exceeds the amount of depreciation or
21 amortization computed pursuant to the internal revenue code on the Arizona
22 adjusted basis of the property.

23 17. The amount by which the adjusted basis computed under the internal
24 revenue code with respect to property for which a credit was claimed under
25 section 43-1080 and which is sold or otherwise disposed of during the taxable
26 year exceeds the adjusted basis of the property computed under section
27 43-1080.

28 18. The amount by which the depreciation or amortization computed under
29 the internal revenue code with respect to property for which a credit was
30 taken under either section 43-1081 or 43-1081.01 exceeds the amount of
31 depreciation or amortization computed pursuant to the internal revenue code
32 on the Arizona adjusted basis of the property.

33 19. The amount by which the adjusted basis computed under the internal
34 revenue code with respect to property for which a credit was claimed under
35 section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise
36 disposed of during the taxable year exceeds the adjusted basis of the
37 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as
38 applicable.

39 20. The deduction referred to in section 1341(a)(4) of the internal
40 revenue code for restoration of a substantial amount held under a claim of
41 right.

42 21. The amount by which a net operating loss carryover or capital loss
43 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
44 code exceeds the net operating loss carryover or capital loss carryover
45 allowable pursuant to section 43-1029, subsection F.

1 22. Any amount deducted pursuant to section 170 of the internal revenue
2 code representing contributions to a school tuition organization or a public
3 school for which a credit is claimed under section 43-1089 or 43-1089.01.

4 23. Any amount deducted in computing Arizona gross income as expenses
5 for installing solar stub outs or electric vehicle recharge outlets in this
6 state with respect to which a credit is claimed pursuant to section 43-1090.

7 24. Any wage expenses deducted pursuant to the internal revenue code
8 for which a credit is claimed under section 43-1087 and representing net
9 increases in qualified employment positions for employment of temporary
10 assistance for needy families recipients.

11 25. Any amount deducted for conveying ownership or development rights
12 of property to an agricultural preservation district under section 48-5702
13 for which a credit is claimed under section 43-1081.02.

14 26. The amount of any depreciation allowance allowed pursuant to
15 section 167(a) of the internal revenue code to the extent not previously
16 added.

17 27. With respect to property for which an expense deduction was taken
18 pursuant to section 179 of the internal revenue code, the amount in excess of
19 twenty-five thousand dollars.

20 28. The amount of any deductions that are claimed in computing federal
21 adjusted gross income representing expenses for which a credit is claimed
22 under section 43-1075.

23 29. The amount by which the depreciation or amortization computed under
24 the internal revenue code with respect to property for which a credit was
25 taken under section 43-1090.01 exceeds the amount of depreciation or
26 amortization computed pursuant to the internal revenue code on the Arizona
27 adjusted basis of the property.

28 30. The amount by which the adjusted basis computed under the internal
29 revenue code with respect to property for which a credit was claimed under
30 section 43-1090.01 and which is sold or otherwise disposed of during the
31 taxable year exceeds the adjusted basis of the property computed under
32 section 43-1090.01.

33 31. THE AMOUNT OF SALARY OR OTHER COMPENSATION THAT IS PAID TO AN
34 UNAUTHORIZED WORKER WHO IS KNOWINGLY HIRED BY THE TAXPAYER AND THAT IS
35 DEDUCTED AS A BUSINESS EXPENSE UNDER SECTION 162 OF THE INTERNAL REVENUE
36 CODE. FOR THE PURPOSES OF THIS PARAGRAPH:

37 (a) "UNAUTHORIZED WORKER" MEANS A PERSON WHO IS AN ALIEN AND WHO IS
38 NOT AUTHORIZED TO BE EMPLOYED UNDER FEDERAL LAW.

39 (b) "ALIEN" MEANS A PERSON WHO IS NOT A CITIZEN OR NATIONAL OF THE
40 UNITED STATES.

41 Sec. 26. Section 46-801, Arizona Revised Statutes, is amended to read:

42 46-801. Definitions

43 In this chapter, unless the context otherwise requires:

44 1. "Caretaker relative" means a relative who exercises responsibility
45 for the day-to-day physical care, guidance and support of a child who

1 physically resides with the relative and who is by affinity or consanguinity
2 or by court decree a grandparent, great-grandparent, sibling of the whole or
3 half blood, stepbrother, stepsister, aunt, uncle, great-aunt, great-uncle or
4 first cousin.

5 2. "Cash assistance" has the same meaning prescribed in section
6 46-101.

7 3. "Child" means a person who is under thirteen years of age.

8 4. "Child care" means the compensated service that is provided to a
9 child who is unaccompanied by a parent or guardian during a portion of a
10 twenty-four hour day.

11 5. "Child care assistance" means any money payments for child care
12 services that are paid by the department and that are paid for the benefit of
13 an eligible family.

14 6. "Child care home provider" means a person who is at least eighteen
15 years of age, who is not the parent, guardian, caretaker relative or
16 noncertified relative provider of a child needing child care and who is
17 certified by the department to care for four or fewer children for
18 compensation with child care assistance monies.

19 7. "Child care providers" means child care facilities licensed
20 pursuant to title 36, chapter 7.1, article 1, child care group homes
21 certified pursuant to title 36, chapter 7.1, article 4, child care home
22 providers, in-home providers, noncertified relative providers and regulated
23 child care on military installations or for federally recognized Indian
24 tribes.

25 8. "Eligible family" means **CITIZENS OR LEGAL RESIDENTS OF THE UNITED**
26 **STATES OR INDIVIDUALS WHO ARE OTHERWISE LAWFULLY PRESENT IN THE UNITED STATES**
27 **AND WHO ARE** parents, legal guardians or caretaker relatives with legal
28 residence in this state and children in their care who meet the eligibility
29 requirements for child care assistance.

30 9. "Federal poverty level" means the poverty guidelines that are
31 issued by the United States department of health and human services pursuant
32 to section 673(2) of the omnibus budget reconciliation act of 1981 and that
33 are reported annually in the federal register.

34 10. "In-home provider" means a provider who is certified by the
35 department to care for a child of an eligible family in the child's own home
36 and is compensated with child care assistance monies.

37 11. "Noncertified relative provider" means a person who is at least
38 eighteen years of age, who provides child care services to an eligible child,
39 who is by affinity or consanguinity or by court decree the grandparent,
40 great-grandparent, sibling not residing in the same household, aunt,
41 great-aunt, uncle or great-uncle of the eligible child and who meets the
42 department's requirements to be a noncertified relative provider.

43 12. "Parent" or "parents" means the natural or adoptive parents of a
44 child.

1 Sec. 27. Section 46-803, Arizona Revised Statutes, is amended to read:
2 46-803. Eligibility for child care assistance

3 A. The department shall provide child care assistance to eligible
4 families who are attempting to achieve independence from the cash assistance
5 program and who need child care assistance in support of and as specified in
6 their personal responsibility agreement pursuant to chapters 1 and 2 of this
7 title.

8 B. The department shall provide child care assistance to eligible
9 families who are transitioning off of cash assistance due to increased
10 earnings or child support income in order to accept or maintain employment.
11 Eligible families must request this assistance within six months after the
12 cash assistance case closure. Child care assistance may be provided for up
13 to twenty-four months after the case closure and shall cease whenever the
14 family income exceeds one hundred sixty-five per cent of the federal poverty
15 level.

16 C. The department shall provide child care assistance to eligible
17 families who are diverted from cash assistance pursuant to section 46-298 in
18 order to obtain or maintain employment. Child care assistance may be
19 provided for up to twenty-four months after the case closure and shall cease
20 whenever the family income exceeds one hundred sixty-five per cent of the
21 federal poverty level.

22 D. The department may provide child care assistance to support
23 eligible families with incomes of one hundred sixty-five per cent or less of
24 the federal poverty level to accept or maintain employment. Priority for
25 this child care assistance shall be given to families with incomes of one
26 hundred per cent or less of the federal poverty level.

27 E. The department may provide child care assistance to families
28 referred by child protective services and to children in foster care pursuant
29 to title 8, chapter 5 to support child protection.

30 F. The department may provide child care assistance to special
31 circumstance families whose incomes are one hundred sixty-five per cent or
32 less of the federal poverty level and who are unable to provide child care
33 for a portion of a twenty-four hour day due to a crisis situation of domestic
34 violence or homelessness, or a physical, mental, emotional or medical
35 condition, participation in a drug treatment or drug rehabilitation program
36 or court ordered community restitution. Priority for this child care
37 assistance shall be given to families with incomes of one hundred per cent or
38 less of the federal poverty level.

39 G. In lieu of the employment activity required in subsection B, C or D
40 of this section, the department may allow eligible families with teenaged
41 custodial parents under twenty years of age to complete a high school diploma
42 or its equivalent or engage in remedial education activities reasonably
43 related to employment goals.

44 H. The department may provide supplemental child care assistance for
45 department approved education and training activities if the eligible parent,

1 legal guardian or caretaker relative is working at least a monthly average of
2 twenty hours per week and this education and training are reasonably related
3 to employment goals. The eligible parent, legal guardian or caretaker
4 relative must demonstrate satisfactory progress in the education or training
5 activity.

6 I. Beginning March 12, 2003, the department shall establish waiting
7 lists for child care assistance and prioritize child care assistance for
8 different eligibility categories in order to manage within appropriated and
9 available monies. Priority of children on the waiting list shall start with
10 those families at one hundred per cent of the federal poverty level and
11 continue with each successive ten per cent increase in the federal poverty
12 level until the maximum allowable federal poverty level of one hundred
13 sixty-five per cent. Priority shall be given regardless of time spent on the
14 waiting list.

15 J. The department shall establish criteria for denying, reducing or
16 terminating child care assistance that include:

17 1. Whether there is a parent, legal guardian or caretaker relative
18 available to care for the child.

19 2. Financial or programmatic eligibility changes or ineligibility.

20 3. Failure to cooperate with the requirements of the department to
21 determine or redetermine eligibility.

22 4. Hours of child care need that fall within the child's compulsory
23 academic school hours.

24 5. Reasonably accessible and available publicly funded early childhood
25 education programs.

26 6. Whether an otherwise eligible family has been sanctioned and cash
27 assistance has been terminated pursuant to chapter 2 of this title.

28 7. Other circumstances of a similar nature.

29 8. Whether sufficient monies exist for the assistance.

30 K. Families receiving child care assistance under subsection D or F of
31 this section are also subject to the following requirements for such child
32 care assistance:

33 1. Each child is limited to no more than sixty cumulative months of
34 child care assistance. The department may provide an extension if the family
35 can prove that the family is making efforts to improve skills and move
36 towards self-sufficiency.

37 2. Families are limited to no more than six children receiving child
38 care assistance.

39 3. Copayments shall be imposed for all children receiving child care
40 assistance. Copayments for each child may be higher for the first child in
41 child care than for additional children in child care.

42 L. The department shall review each case at least once a year to
43 evaluate eligibility for child care assistance.

44 M. THE DEPARTMENT SHALL REPORT ON DECEMBER 31 AND JUNE 30 OF EACH YEAR
45 TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE TOTAL NUMBER OF FAMILIES WHO

1 APPLIED FOR CHILD CARE ASSISTANCE AND THE TOTAL NUMBER OF FAMILIES WHO WERE
2 DENIED ASSISTANCE UNDER THIS SECTION BECAUSE THE PARENTS, LEGAL GUARDIANS OR
3 CARETAKER RELATIVES WHO APPLIED FOR ASSISTANCE WERE NOT CITIZENS OR LEGAL
4 RESIDENTS OF THE UNITED STATES OR WERE NOT OTHERWISE LAWFULLY PRESENT IN THE
5 UNITED STATES.

6 N. THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE, RELIGION,
7 GENDER, ETHNICITY OR NATIONAL ORIGIN.

8 ~~M.~~ O. Notwithstanding section 35-173, monies appropriated for the
9 purposes of this section shall not be used for any other purpose without the
10 approval of the joint legislative budget committee.

11 ~~N.~~ P. The department shall refer all child care subsidy recipients to
12 child support enforcement and to local workforce services and provide
13 information on the earned income tax credit.

14 Sec. 28. Appropriation; immigration ombudsman-citizens aide;
15 exemption

16 A. The sum of \$100,000 and one FTE position is appropriated from the
17 state general fund in fiscal year 2006-2007 to the ombudsman-citizens aide
18 for the purpose of the immigration ombudsman-citizens aide pursuant to
19 section 41-1384, Arizona Revised Statutes, as added by this act.

20 B. The appropriation made in subsection A of this section is exempt
21 from the provisions of section 35-190, Arizona Revised Statutes, relating to
22 lapsing of appropriations.

23 Sec. 29. Appropriations; purposes; reports; billing; exemption

24 A. The following sums are appropriated from the state general fund to
25 the border security fund established by section 41-2351, Arizona Revised
26 Statutes, as added by this act, in fiscal year 2006-2007 for the purposes
27 indicated:

28 1. \$27,500,000 for grants to counties for incarceration operating
29 expenses, including temporary and movable detainment facilities, tents for
30 immigration control and operating and personnel costs for the detainment
31 facilities.

32 2. \$27,500,000 for grants to city, town and county law enforcement
33 agencies, city and town prosecutors and county attorneys for border security
34 personnel, physical barriers and any other immigration enforcement purposes.

35 3. \$1,000,000 for grants to the state department of corrections and
36 county sheriffs for border clean-up restoration costs.

37 B. The department of administration shall send billing invoices to the
38 federal government to recover the amount of the appropriations in subsection
39 A of this section for deposit in the state general fund.

40 C. The appropriations made in subsection A of this section are exempt
41 from the provisions of section 35-190, Arizona Revised Statutes, relating to
42 lapsing of appropriations.

43 Sec. 30. Appropriation; attorney general enforcement; exemption

44 A. The sum of \$2,000,000 is appropriated from the state general fund
45 in fiscal year 2006-2007 to the attorney general for the purpose of enforcing

1 sections 23-214, 23-215, 23-222, 41-1080.01, 41-1080.02 and 41-1080.03,
2 Arizona Revised Statutes, as added by this act.

3 B. The appropriation made in subsection A of this section is exempt
4 from the provisions of section 35-190, Arizona Revised Statutes, relating to
5 lapsing of appropriations.

6 Sec. 31. Appropriation; department of public safety; southern
7 Arizona crime laboratory; exemption

8 A. The sum of \$14,300,000 is appropriated from the state general fund
9 in fiscal year 2006-2007 to the department of public safety for establishment
10 of a southern Arizona crime laboratory.

11 B. The appropriation made in subsection A of this section is exempt
12 from the provisions of section 35-190, Arizona Revised Statutes, relating to
13 lapsing of appropriations.

14 Sec. 32. Appropriations; border radar; reimbursement

15 A. The sum of \$25,000,000 is appropriated from the state general fund
16 in each of the fiscal years 2006-2007 and 2007-2008 to the border radar fund
17 established by section 26-371, Arizona Revised Statutes, as added by this
18 act.

19 B. Any federal monies provided to this state for border radar shall be
20 used to offset the appropriation made in subsection A of this section and the
21 offset amount reverts to the state general fund.

22 Sec. 33. Appropriations; GITEM; border security; exemption

23 A. The sum of \$28,952,900 is appropriated from the state general fund
24 and and 161.8 FTE positions are appropriated in fiscal year 2006-2007 to the
25 department of public safety which shall be used for:

26 1. The operating expenses of the existing GITEM mission and to expand
27 the existing gang intelligence team enforcement mission into a
28 multijurisdiction task force known as the gang and immigration intelligence
29 team enforcement mission. If the department of public safety uses any of the
30 monies appropriated for GITEM for an agreement or contract with a city, town,
31 county or other entity to provide services for the GITEM program, the city,
32 town, county or other entity shall provide fifteen per cent of the cost of
33 the services and the department of public safety shall provide eighty-five
34 per cent of the cost for each agreement or contract. The monies shall also
35 be used for new functions relating to immigration enforcement, including
36 border security and border personnel. This appropriation is for the purpose
37 of expanding GITEM and not to add a new unit or increased administration to
38 the mission. Prior to expending the appropriated monies, the department
39 shall submit an expenditure plan to the joint legislative budget committee
40 for review. Within thirty days after the last day of each calendar quarter,
41 the department shall provide a summary of quarterly and year-to-date
42 expenditures to the joint legislative budget committee.

43 2. An additional one hundred department of public safety sworn
44 personnel, fifty of whom shall be used for immigration and border security.
45 Prior to expending the appropriated monies, the department shall submit an

1 expenditure plan to the joint legislative budget committee for review.
2 Within thirty days after the last day of each calendar quarter, the
3 department shall provide a summary of quarterly and year-to-date expenditures
4 to the joint legislative budget committee.

5 B. The appropriation made in subsection A of this section is exempt
6 from the provisions of section 35-190, Arizona Revised Statutes, relating to
7 lapsing of appropriations.

8 Sec. 34. Border radar; implementation

9 A. The department of emergency and military affairs shall lease or
10 purchase a ground based radar system integrated with cameras for the southern
11 Arizona border for border protection. The location and implementation of the
12 radar system shall be established by the department of emergency and military
13 affairs in cooperation and consultation with the contractor and federal,
14 state and local governments, Indian tribes and private property owners on the
15 border. The contract shall require immediate notification to the United
16 States border patrol by the implementing contractor for each illegal crossing
17 of the border detected by the radar.

18 B. The department of emergency and military affairs shall:

19 1. Submit a draft of the request for proposals to the joint committee
20 on capital review within ninety days after the effective date of this act for
21 review.

22 2. Enter into a contract with the contractor for installation,
23 management and maintenance costs and personnel and associated equipmenet
24 costs of the project within one hundred twenty days after the release of the
25 request for proposals. The contract shall contain a list including the number
26 of proposed radar facility locations, the miles of border covered by the
27 proposed radar facility locations and the estimated time for completion of
28 the first and last radar sites.

29 3. Submit quarterly reports beginning December 1, 2006, until
30 completion of the project, to the joint committee on capital review and the
31 joint legislative committee on immigration for review. The reports shall
32 detail expenditures, progress on implementation of the project and the
33 timeframes for completion of the first and last radar facility locations.

34 Sec. 35. Initial terms of members of the Arizona border
35 enforcement security team

36 A. Notwithstanding section 41-2351, Arizona Revised Statutes, as added
37 by this act, the initial terms of members of the Arizona border enforcement
38 security team appointed pursuant to section 41-2351, subsection A, paragraphs
39 4 through 9, Arizona Revised Statutes, as added by this act, are:

- 40 1. Two terms ending January 1, 2008.
- 41 2. Three terms ending January 1, 2009.
- 42 3. Three terms ending January 1, 2010.

43 B. The appointing authorities shall make all subsequent appointments
44 as prescribed by statute.

